# THE CODE

OF

# CRIMINAL PROCEDURE.

(ACT XXV. OF 1861.)

## WITH AN INDEX

BY

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SOLICITOR.

LEGISLATIVE COUNCIL OF INDIA

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## SCHEDULE.

# ACT No. XXV. OF 1861.

*Passed by the Legislative Council of India. Received the assent of the Governor General on the 5th September*, 1861.

THE

# CODE OF CRIMINAL PROCEDURE.

*An Act for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter.*

Preamble.

WHEREAS it is expedient to simplify the Procedure of the Courts of Criminal Judicature not established by Royal Charter; it is enacted as follows:—

Short title.

1. This Act shall be called the Code of Criminal Procedure.

## CHAPTER I.

### OF DEFINITIONS.

Interpretation.

2. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction.

"British India."

3. The words "British India" shall denote the territories that are or shall become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India," except the settlement of Prince of Wales' Island, Singapore, and Malacca.

4. The words "special law" shall denote a law applicable to a particular subject.

"Special law."

5. The words "local law" shall denote a law applicable only to a particular part of British India.

"Local law."

6. The words "moveable property" shall include corporeal property of every description, except land and things attached to the earth or permanently fastened to any thing which is attached to the earth.

"Moveable property."

7. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Number.

8. Words importing the masculine gender shall include the feminine.

Gender.

9. The words "enquired into" shall be deemed to comprise every proceeding preliminary to trial; and the word "determined," to comprise trial, and every subsequent proceeding, including the punishment of the offender.

"Enquired into."

"Determined."

10. The word "written" shall include "printed," "lithographed," and "engraved."

"Written."

11. The words "Criminal Court" shall denote every Judge or Magistrate lawfully exercising jurisdiction in criminal cases, whether for the decision of such cases in the first instance or on appeal, or for commitment to any other Court or Officer.

"Criminal Court."

12. The words "Court of Justice" shall denote a Judge who is empowered by law to act judicially alone, or a body of Judges empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

"Court of Justice."

13. The words "Court of Session" shall, subject to the limitations in Section 22, include the Courts of the Assistant Sessions Judges in the Presidency of Bombay.

"Court of Session."

14. The words "Magistrate of the District" shall mean the Chief Officer charged with the executive administration of a District in criminal matters, by whatever designation such Officer is called.

"Magistrate of the District."

15. The word "Magistrate" shall include all persons exercising all or any of the powers of a Magistrate.

"Magistrate."

16. The words "the powers of a Magistrate" shall imply the full powers of a Magistrate.

"The powers of a Magistrate."

17. The words "any of the powers of a Magistrate" shall denote powers less than the full powers of a Magistrate.

"Any of the powers of a Magistrate."

18. The local jurisdiction of the Magistrate of a District shall, for the purposes of this Act, be deemed a "District;" and the local jurisdiction in a particular part of a District vested in a Magistrate other than the Magistrate of the District, shall be deemed a "division of a District."

"District."

"Division of a District."

19. In any part of British India to which this Act shall be extended under the provisions of Section 445, the words "Sudder Court" shall denote the highest Criminal Court of Appeal or revision in such part established.

"Sudder Court."

20. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British Calendar.

"Year." "Month."

## CHAPTER II.

### OF THE JURISDICTION OF THE CRIMINAL COURTS.

21. The Criminal Courts of the several grades, according to the powers vested in them respectively by this Act, shall have jurisdiction in respect of offences punishable under the Indian Penal Code

Offences cognizable by Criminal Courts.

(Act XLV. of 1860) or under any special or local law (except offences which are by any such law made punishable by some other authority therein specially mentioned), and in the investigation and trial of the offences hereby declared to be within their jurisdiction, shall be guided by the provisions of this Act.

By what Courts the offences mentioned in the Schedule are triable and within what limits such Courts may pass sentence.

22. The offences mentioned in the Schedule annexed to this Act shall, subject to the provision contained in the third explanatory note prefixed to the said Schedule, be triable by the Courts specified in Column 7 of the said Schedule, and such Courts shall be competent to pass sentence in respect of such offences within the following limits, (that is to say,)

Powers of Court of Session.

The Court of Session. Death (subject to confirmation by the Sudder Court). Transportation, imprisonment of either description for a period not exceeding 14 years, including such solitary confinement as is authorized by law, or fine to an unlimited amount, or both transportation and fine, or imprisonment and fine, in cases in which both punishments are authorized by the Indian Penal Code. In cases in which, according to the Indian Penal Code, forfeiture of property may be adjudged, the Court of Session may adjudge such forfeiture in addition to the sentence.

Assistant Sessions Judges in Bombay.

In the Presidency of Bombay, it shall be lawful for a Sessions Judge to delegate cases for trial by an Assistant Sessions Judge: and such Assistant Sessions Judge shall be competent in such cases to pass sentences within the following limits:—Imprisonment of either description for a term not exceeding seven years (including such solitary confinement as is authorized by law), or fine, or both. If the sentence be one of imprisonment for a term exceeding three years, it shall be passed subject to confirmation by the Sessions Judge. The Sessions Judge may review and hear appeals against the pro-

ceedings of his Assistants, and may confirm and amend (but not so as to enhance), or may reverse their sentences or orders. It shall not be competent to an Assistant Sessions Judge to review or hear an appeal against the proceedings of a Magistrate.

Powers of the Magistrate of the District.

The Magistrate of the District or other Officer authorized to exercise the powers of a Magistrate. Imprisonment of either description not exceeding the term of two years, including such solitary confinement as is authorized by law, or fine to the extent of one thousand Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

Subordinate Magistrates or Officers authorized to exercise any of the powers of a Magistrate :—

Powers of Subordinate Magistrates, 1st Class.

1st Class. Imprisonment of either description not exceeding six months, or fine not exceeding two hundred Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

2nd Class.

2nd Class. Imprisonment of either description not exceeding one month, or fine not exceeding fifty Rupees, or both imprisonment and fine in all cases in which both punishments are authorized by the Indian Penal Code.

No sentence of solitary confinement under Section 73 of the Indian Penal Code, shall be passed by any Court inferior to an Officer exercising the powers of a Magistrate.

Local Government may invest any person with powers of Magistrate or Subordinate Magistrate.

23. The local Government may invest any person with the powers of a Magistrate or of a Subordinate Magistrate of the first or second class, as described in the last preceding Section, with a view to the exercise by such person of such powers under this Act or under any special or local law.

Criminal Courts to have jurisdiction over all persons, except persons expressly exempted.

24. The Criminal Courts shall have jurisdiction over all persons, except such persons as by any Act of Parliament or by any Regulation of the Codes of Bengal, Madras, and Bombay, respectively, or by this Act, or any other Act of the Governor-General of India in Council, are or shall be exempted from their jurisdiction.

No person exempted from Criminal Procedure by reason of place of birth or of descent.

25. No person whatever shall, by reason of place of birth, or by reason of descent, be exempt from the rules of Criminal Procedure contained in this Act. Provided that nothing in this Section shall be held to authorize the trial or commitment for trial before any Criminal Court of any person who, in respect of the offence with which he is charged, is not subject to the jurisdiction of that Court.

Proviso.

Offence to be ordinarily tried in the jurisdiction where it is committed.

26. Except where otherwise expressly provided by this Act, every offence shall be enquired into and determined in the District or division of a District in which the offence was committed. Provided that nothing in this Section shall exempt European British subjects from being tried and convicted before the Supreme Courts of Judicature for offences committed beyond the local limits of such Courts.

Proviso.

May be tried in the jurisdiction where the act is done or where the consequence ensues.

27. When a person shall be accused of the commission of any offence by reason of anything which has been done and of any consequence which has ensued, such offence may be enquired into or determined in any District or division of a District in which any such thing shall have been done or any such consequence shall have ensued.

Abetment.

28. The abetment of an offence, wherever such abetment shall have taken place, may be enquired into or determined in any District or division of a District in which

the offence abetted may be enquired into or determined by any Court which has jurisdiction to try such offence, as if the abetment had been committed at the same place at which the offence abetted was wholly or partly committed; or the abetment may be enquired into or determined in any District or division of a District within which the abettor has done any thing for abetting the commission of such offence.

Offence committed on boundary.

29. When any offence shall be committed on the boundary or boundaries of two or more Districts, whether subject to the same local Government or not, or of two or more divisions of a District, or shall be begun in one District or division of a District and completed in another, whether such Districts be subject to the same local Government or not, every such offence may be enquired into or determined in any of such Districts or divisions of a District in the same manner as if it had been actually and wholly committed therein.

Offence committed during journey, &c.

30. When any offence shall be committed on any person or on or in respect of any property in or upon any coach, cart, or other carriage or conveyance, or upon any beast of burden employed in any journey, or shall be committed on any person or on or in respect of any property on board any vessel employed on any voyage or journey upon any navigable river, canal, or inland navigation, such offence may be enquired into or determined in any District or division of a District through any part whereof such coach, cart, carriage, conveyance, beast of burden, or vessel shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if the offence had been actually and wholly committed in such District or division of a District; and in all cases where the side, middle, or other part of any highway, or the side, bank, middle, or other part of any such river, canal, or navigation, shall constitute

the boundary of any two Districts or divisions of a District, such offence may be enquired into or determined in either of such Districts or divisions of a District through or adjoining to or by the boundary of any part whereof, which such coach, cart, carriage, conveyance, beast of burden, or vessel, shall have passed in the course of the journey or voyage during which such offence shall have been committed, in the same manner as if it had actually and wholly been committed in such District or division of a District.

Receiving &c. stolen property.

31. If any person be charged with any offence punishable under Sections 411, 412, or 414 of the Indian Penal Code, under the head "Of the receiving of stolen property," such offence may be enquired into or determined in any District or division of a District in which such person shall have or shall have had such stolen property in his possession, or in any District or division of a District in which the offence by which such property came to be stolen property within the meaning of the said Code may be enquired into or determined.

Being a thug, &c.

32. Whenever any person is charged with being a thug, or with murder as a thug, or with dacoity with or without murder, or with having belonged to a gang of dacoits, or with having belonged to any wandering or other gang of thieves associated for the purpose of habitually committing theft or robbery and not being a gang of thugs or dacoits, the offence may be enquired into in any district in which the accused person is, by any Magistrate competent to commit to a Court of Session, and the accused person may be committed to the Court of Session to which such Magistrate is subordinate.

Escape from lawful custody under sentence.

33. If any person shall escape from any custody in which he is lawfully detained in pursuance of a sentence of a Court of Justice, or by virtue of a commutation of such sentence, or shall be charged

with any offence punishable under Section 227 of the Indian Penal Code, or under Section 12 of Act XXIV. of 1855 *(relating to Penal Servitude)*, the offence may be enquired into or determined, either in the District or division of a District in which such person shall be apprehended and retaken, or in the District or division of a District in which he was formerly tried, or in the case of an escape from custody, in the District in which he shall have escaped from custody.

Sudder Court to decide when doubt arises as to the jurisdiction where an enquiry shall take place.

34. Whenever any doubt shall arise as to the District in which any offence should be enquired into or determined, it shall be lawful for the Sudder Court within whose jurisdiction the offender is apprehended, to decide in which District the offence shall be determined.

Sudder Court may transfer any case from one jurisdiction to another.

35. It shall be competent to the Sudder Court to order the transfer of any criminal case or appeal from a Criminal Court subordinate to its authority to any other such Criminal Court of equal or superior jurisdiction, or to order that any offence shall be enquired into or determined in any District or division of a District other than that in which the offence shall have been committed, whenever it shall appear to such Sudder Court that such order will promote the ends of justice or tend to the general convenience of the parties or witnesses.

Magistrate may withdraw any case from a Subordinate Court, and try it himself or refer it to any other such Court.

36. It shall be competent to the Magistrate of the District or to a Magistrate in charge of a division of a District, to withdraw any criminal case from any Court subordinate to such Magistrate within his District or division, and to try the case himself, or to refer it for trial to any other such Court competent to try the same.

Commitment for trial before Supreme Court.

37. It shall be competent to the Magistrate of the District, or to any other Officer exercising the powers of a Magistrate, to hold the preliminary

enquiry into any cases triable by a Supreme Court of Judicature, and to commit or hold to bail persons to take their trial before such Court and to exercise all the powers necessary for such purpose.

Subordinate Magistrates may be empowered to prepare cases for trial before the Court of Session or Supreme Court.

38. The local Government may empower any Subordinate Magistrate of the first or second class not vested with such power by any law for the time being in force, to hold the preliminary enquiry into cases triable by the Court of Session, or by any Supreme Court of Judicature, and may empower such Subordinate Magistrate to commit, or hold to bail, persons to take their trial before such Court of Session or Supreme Court, and to exercise all the powers necessary for such purpose.

Only Justices of the Peace empowered to commit European British Subjects for trial.

39. No person who is not a Justice of the Peace shall commit or hold to bail any European British subject to take his trial before a Supreme Court of Judicature.

Procedure when a European British subject is charged with an offence triable by Supreme Court.

40. When a European British subject is charged with an offence triable by a Supreme Court of Judicature, any Magistrate may hear the complaint against such person, and may issue a warrant of arrest or hold to bail such person with a view to the complaint being investigated by a Justice of the Peace.

Procedure when a European is arrested by an Officer not being a Justice of the Peace.

41. When a European British subject has been arrested under a warrant issued under the last preceding Section by a Magistrate not being a Justice of the Peace, if such Magistrate considers that there is sufficient ground for proceeding, he shall forthwith forward the person arrested to a Justice of the Peace, or if the offence with which such person is charged is bailable, shall, if sufficient bail be tendered, admit him to bail for his appearance before a Justice of the Peace. When the person

accused is brought or appears before a Justice of the Peace under this Section, such Justice of the Peace shall himself hold the preliminary enquiry into the case before he commits or holds to bail such person for trial before the Supreme Court of Judicature.

Saving of jurisdiction given by 53 Geo. III. c. 155, s. 105.

42. Nothing in this Chapter shall interfere with the jurisdiction given by 53 George III. c. 155, s. 105, "or Act VII. of 1853 *(to extend the jurisdiction of Magistrates under the 53 George III. c. 155, s. 105, in cases of assault, forcible entries, and other injuries accompanied by force, not being felonies).*"

Proviso.

Provided that the jurisdiction given by the said Statute and the said Act shall be exercised only by a Justice of the Peace.

## CHAPTER III.

### PRELIMINARY RULES.

Complainants and witnesses to be examined according to law for time being in force.

43. In all Criminal Courts complainants and witnesses shall be examined upon oath or affirmation, or otherwise, according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Court may apply portion of fine in compensation for loss or damage caused, &c.

44. In cases in which by the sentence or order of any Criminal Court a fine is imposed upon a conviction for any offence made punishable by fine, whether the offence be punishable or punished by fine only or otherwise, it shall be lawful for such Court to order that the fine or any part thereof, not exceeding the loss appearing to be caused to the person who has suffered by such offence, and any special damage of a pecuniary nature that may have resulted to such person by such offence, and any expenses incurred by the complainant in the prosecution, as the Court may consider reasonable and proper, be paid to or for the benefit of such person

according to the discretion of the Court, and in every such case the fine when levied or paid shall be paid and distributed accordingly. If the fine be awarded by a Court whose decision is subject to revision, the amount awarded to the person injured shall not be paid to such person until a period of two months shall have elapsed from the date of the award.

Imprisonment in default of payment of fine.

45. In every case punishable with imprisonment as well as fine, in which the offender is sentenced to a fine, whether with or without imprisonment, the Criminal Courts shall be guided by the provisions of Sections 64 and 65 of the Indian Penal Code in awarding the period of imprisonment in default of payment of the fine. Provided that, in every such case decided by a Magistrate, the period of imprisonment awarded in default of payment of the fine shall, in no case, exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

Proviso.

Sentence in cases of conviction of two or more offences.

46. When a person shall be convicted at one time of two or more offences punishable under the same or different Sections of the Indian Penal Code, it shall be lawful for the Court to sentence such person for the offences of which he shall have been convicted to the several penalties prescribed by the said Code which such Court is competent to inflict; such penalties when consisting of imprisonment to commence the one after the expiration of the other. If shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which such Court is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court. Provided that in no case shall the person be sentenced to imprisonment for

Proviso.

a longer period than fourteen years; and provided also, that if the case be tried by a Magistrate, the punishment shall not in the aggregate exceed twice the extent of punishment which such Magistrate is by his ordinary jurisdiction competent to inflict.

Currency of sentence of escaped convicts.

47. When sentence shall be passed on an escaped convict for such escape or for any other offence, the Court may direct such sentence to take effect immediately, or after such escaped convict shall have suffered imprisonment or transportation, as the case may be, for a further period equal to that which remained unexpired of his former sentence at the time of his escape.

Judgment on offender already imprisoned under sentence for another crime.

48. When sentence shall be passed on a person already under sentence of imprisonment or transportation for another offence, the Court, if the sentence be for imprisonment, shall direct that such imprisonment shall commence at the expiration of the imprisonment or transportation to which such person shall have been previously sentenced, or if such person shall be undergoing a sentence of imprisonment, and the sentence on such subsequent conviction be for transportation, the Court may direct that the sentence shall commence immediately, or at the expiration of the imprisonment to which such person shall have been previously sentenced. Provided that nothing in this Section shall be held to excuse such person from any part of the punishment to which he is liable upon such former or subsequent conviction.

Proviso.

Local Government may order removal of a prisoner from one jail to another.

49. When any person shall be sentenced to imprisonment, it shall be lawful for the local Government to order the removal of such person during the period prescribed for his imprisonment from the jail or place in which he is confined to any other jail or place of imprisonment within the jurisdiction of the same local Government.

Place of transportation not to be specified in sentences.

50. When any person shall be sentenced to transportation, the Court passing the sentence shall not specify in its sentence the place to which such person shall be sent for the purpose of undergoing the sentence.

Governor General in Council to appoint a place or places.

51. It shall be lawful for the Governor General of India in Council from time to time to appoint a place or places within British India to which persons sentenced to transportation shall be sent: and the local Government, or some Officer duly authorized by such Government, shall give orders for the removal of such persons to the place or places so appointed.

Local Government to direct removal of persons sentenced to such place or places.

Execution of sentences of transportation passed on persons already undergoing transportation under a previous sentence.

52. When sentence of transportation shall be passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the local Government to order the removal of such person from the place in which he is so undergoing transportation.

Sentence of death.

53. When any person shall be sentenced to death, the sentence shall direct that such person be hanged by the neck till he is dead.

Governor General in Council or the local Government may remit a punishment.

54. When any person has been sentenced to punishment for an offence, the Governor General of India in Council or the local Government may, at any time, without conditions, or upon any conditions which such person shall accept, remit the whole or any part of the punishment to which he shall have been sentenced.

Party tried upon formal charge not liable to renewed prosecution.

55. A person who has once been tried for an offence and convicted or acquitted of such offence shall not be liable to be tried again for the same

offence. Provided that any person may be tried for the offence of culpable homicide and punished for that offence, notwithstanding he may have been tried and punished for the act which caused the death, if at the time of his conviction for the said act death shall not have resulted, or shall not have been known by the Court which passed sentence to have resulted.

Proviso.

56. If upon the trial of any person charged with the offence of criminal breach of trust under Section 405 of the Indian Penal Code, or of criminal breach of trust as a carrier, wharfinger, or warehouse-keeper, under Section 407 of the said Code, it shall be proved that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section 378, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under the said Section 378.

A person charged with criminal breach of trust may be found guilty of theft.

57. If upon the trial of any person charged with the offence of Criminal breach of trust as a clerk or servant under Section 408 of the Indian Penal Code, it shall be proved that such person took the property in question in any such manner as to amount to the offence of theft under Section 378 of the said Code, or the offence of theft as a clerk or servant of property in possession of his master under Section 381 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section 378 or Section 381 as

A person charged with criminal breach of trust as a servant may be found guilty of theft or of theft as a servant.

the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

A person charged with theft may be found guilty of misappropriation or breach of trust.

58. If upon the trial of any person charged with the offence of theft under Section 378 of the Indian Penal Code, or the offence of theft in a building, tent, or vessel, under Section 380 of the said Code, it shall be proved that he took the property in question in any such manner as to amount to the offence of criminal misappropriation of property, under Section 403 of the said Code, or the offence of criminal breach of trust, under Section 405 of the said Code, he shall not be entitled to be acquitted, but the Court, or the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the said offence under the said Section 403 or Section 405, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

A person charged with theft as a servant may be found guilty of misappropriation.

59. If upon the trial of any person charged with the offence of theft as a clerk or servant of property in the possession of his master under Section 381 of the Indian Penal Code, it shall be proved that he took the property in question in any such manner as to amount to the offence of criminal misappropriation of property under Section 403 of the said Code, or the offence of criminal misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of such criminal misappropriation under the said Section 404, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under Section 405 of the said Code, or the offence of criminal breach of trust as a clerk or servant under Section 408 of the said Code, he shall not be entitled to be acquitted, but the Court, or

the Jury in a case tried by Jury, shall be at liberty to find that such person is not guilty of the offence charged, but is guilty of the offence under the said Section 403, Section 404, Section 405, or Section 408, as the case may be, and thereupon such person shall be liable to be punished in the same manner as if he had been found guilty upon a charge under such Section.

No person charged under the last four Sections and found guilty liable to be charged again.

60. No person charged and tried for an offence under any Section of the Indian Penal Code in the last four Sections of this Act mentioned, and found guilty of another offence under the provisions of any other of the said Sections of the Indian Penal Code, shall be liable to be afterwards prosecuted upon the same facts under the Section under which he was charged, or under the Section under which he was found guilty.

Levy of fines.

61. In every case in which an offender is sentenced to a fine, it shall be competent to the Court which sentences such offender, whether or not the offence be punishable with fine only, and whether or not the sentence direct that in default of payment of the fine the offender shall suffer imprisonment, to issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the offender which may be found within the jurisdiction of the Magistrate of the District.

Magistrate may issue orders to prevent obstructions, &c.

62. It shall be lawful for any Magistrate by a written order to direct any person to abstain from a certain act, or to take certain order with certain property in his possession or under his management, whenever such Magistrate shall consider that such direction is likely to prevent or tends to prevent obstruction, annoyance, or injury, or risk of obstruction, annoyance, or injury to any persons lawfully employed, or is likely to prevent or tends to prevent danger to human life, health, or safety, or is likely to prevent or tends to prevent a riot or an affray.

Magistrate may prohibit the repetition or continuance of public nuisances.

63. Any Magistrate may enjoin any person not to repeat or continue a public nuisance.

## CHAPTER IV.

### Of the Summons.

Proceeding to compel appearance.

64. When an offence has been committed, or is supposed to have been committed, the proceeding, in order to compel the person known or suspected to have committed such offence to appear for the purpose of enquiry concerning the same, may be by summons or arrest.

Complaint.

65. A summons or a warrant of arrest may be obtained on a complaint as hereinafter provided.

Examination of complainant.

66. When in order to the issuing of a summons or a warrant against any person for any offence, a complaint is made before the Magistrate of the District, or a Magistrate who is authorized to receive such complaint without reference from the Magistrate of the District, such Magistrate shall examine the complainant. The examination shall be reduced into writing, and shall be signed by the complainant, and also by the Magistrate.

Magistrate how to proceed on complaint.

67. The Magistrate before whom such complaint is duly made shall, if it appear to him that there is sufficient ground for proceeding, issue his summons, or in cases in which a warrant may issue, his warrant for causing the person accused to appear before himself or some other Magistrate having jurisdiction. If in the judgment of such Magistrate there be no sufficient ground for proceeding, he shall dismiss the complaint.

Magistrate may take cognizance of offences without complaint made.

68. Except as is otherwise provided in Chapter XI. of this Act, the Magistrate of the District, or a Magistrate in charge of a division of a Dis-

trict may, without any complaint, take cognizance of any offence which may come to his knowledge and may issue a summons, or in cases where a warrant may issue, a warrant of arrest against the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person. The provisions of this Section shall not apply to the offences described in Chapters XIX., XX., and XXI. of the Indian Penal Code.

* Proviso.

69. Every summons issued by a Magistrate to an accused person shall be in writing and shall be signed and sealed by such Magistrate, and shall be in the Form (A) given in the Appendix, or to the like effect.

Summons, what it is to contain, and how to be directed.

70. A summons shall ordinarily be issued through a Police Officer; but the Magistrate issuing the summons may, if immediate service be necessary and no Police Officer be immediately available, direct the summons to be served by any other person.

Summons by whom to be served.

71. The summons shall be served on the accused personally, or in case the accused person shall not be found, it may be left for him with some adult male member of his family residing with him.

Summons how to be served.

72. When the person accused cannot be found, and there is no adult male member of his family on whom the service can be made, the serving Officer shall fix a copy of the summons on some conspicuous part of the house in which the accused person ordinarily resides.

Mode of service if accused cannot be found, &c.

73. A Magistrate may (notwithstanding such summons), either before the appearance of the accused person, as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person.

Notwithstanding summons, warrant may issue in certain cases.

Summons or warrant when grantable for an offence committed beyond local jurisdiction.

74 The Magistrate of the District or a Magistrate in charge of a division of a District, may issue a summons or warrant for the apprehension of any person within such District or division of a District, in respect of any offence known or suspected to have been committed by such person in a different District or division of a District, or on the high seas, or in a foreign country, and for which, if committed within the jurisdiction of such Magistrate, he might issue a summons or warrant.

Provisions in this Chapter relating to a summons and its issue applicable to all summonses.

75. The provisions relating to a summons and its issue contained in this Chapter, shall be applicable to every summons issued under this Act.

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## CHAPTER V.

### Of the Warrant and its Execution.

Form of warrant.

76. Every warrant issued by a Magistrate shall be in writing, and shall be signed and sealed by such Magistrate, and shall be in the Form (B) given in the Appendix, or to the like effect.

Warrants to whom to be directed.

77. A warrant shall ordinarily be directed to a Police Officer, but the Magistrate issuing a warrant may, if immediate service be necessary and no Police Officer be immediately available, direct the warrant to any other person.

When directed to any person other than a Police Officer.

78. When a warrant is directed to a person other than a Police Officer, any other person may aid in executing such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

79. A warrant may be directed to several persons, and when so directed, may be executed by all, or by any one or more of such persons.

To several persons jointly.

80. A warrant directed to a Police Officer may also be executed by any other Police Officer whose name shall be endorsed upon the warrant by the Officer to whom the warrant is directed.

Police Officer may endorse warrant to another Officer.

81. The Magistrate by whom a warrant of arrest is issued, may attend personally for the purpose of seeing that the warrant is duly executed. The Magistrate may also at any time direct the arrest in his presence of any person for whose arrest he is competent to issue a warrant.

Magistrate issuing warrant may personally superintend its execution.

82. Every person is bound to assist a Magistrate or Police Officer demanding his aid in the prevention of a breach of the peace, or in the suppression of a riot or an affray, or in the taking of any other person whom such Magistrate or Police Officer is authorized to arrest.

All persons bound to assist in certain cases.

83. A warrant issued by a Magistrate shall ordinarily be executed (unless it be specially otherwise provided) within the jurisdiction of the Magistrate of the District in which it was issued.

Where a warrant of a Magistrate must be executed.

84. When any person against whom a warrant is issued by a Magistrate shall escape, go into, or be in any place out of the jurisdiction of the Magistrate issuing such warrant, the warrant may be executed in such place; and if the person against whom the warrant is issued is arrested in such place, the Police Officer or other person executing the warrant shall carry him before the Magistrate of the District or some other Magistrate within whose jurisdiction the arrest was made. If the offence with which the person arrested is charged be bailable, and

Warrant endorsed in another jurisdiction.

such person shall be willing and ready to give bail for his appearance before the Magistrate by whom the warrant was issued, the Magistrate before whom such person is brought, shall take bail of such person for his appearance accordingly, and shall release him from custody, and forward the recognizance or other bail-bond to the Magistrate by whom the warrant was issued. If the offence be not bailable, or if the person arrested be unable to find bail, he shall be forwarded to the Magistrate by whom the warrant was issued. If the arrest be made within the local limits of the jurisdiction of a Supreme Court of Judicature, the person accused, when arrested, shall be taken before the Chief Commissioner of Police or a Police Magistrate. Such Chief Commissioner or Police Magistrate shall forward the person arrested to the Magistrate by whom the warrant was issued, or if the offence with which the person arrested is charged be bailable, shall admit him to bail and shall forward the recognizance or other bail-bond to such Magistrate.

If arrest be made within jurisdiction of a Supreme Court.

85. If the place of arrest under the last preceding Section be within twenty miles from the place at which the warrant was issued, the person arrested may be carried in the first instance before the Magistrate who issued the warrant.

If arrest be made within 20 miles, person arrested may be carried before the Magistrate who issued the warrant.

86. It shall be competent to a Magistrate issuing a warrant for the arrest of a person out of his jurisdiction to direct the warrant to the Magistrate of the District in which such person is, or is supposed to be, and to transmit the same by post. On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name on such warrant, and enforce its execution in the same manner as if the warrant had been originally issued by himself. If the person named in the warrant be apprehended,

Warrant to be endorsed may be sent by post.

he shall be carried before the Magistrate who endorsed the warrant and shall be dealt with by such Magistrate as provided in Section 84.

Warrants for execution within limits of Supreme Court to be addressed to Chief Commissioner or Magistrate of Police

87. A warrant issued under the last preceding Section for execution within the local limits of a Supreme Court of Judicature, shall be directed to the Chief Commissioner of Police or to a Police Magistrate, who shall proceed in the manner provided in Section 84.

Magistrate how to proceed on arrest under his own warrant for an offence committed out of his jurisdiction.

88. On the arrest of a person for whose apprehension a warrant has been issued under the provisions of Section 74 in respect of an offence known or suspected to have been committed in another District or division of a District, the Magistrate who issued the warrant shall, unless he is authorized to complete the enquiry himself, send the person arrested to the Magistrate within the limits of whose jurisdiction the offence is known or suspected to have been committed, or take bail for his appearance before such Magistrate if the offence of which such person is suspected is bailable. When the Magistrate who issued the warrant cannot satisfy himself as to the Magistrate to whom the person arrested should be sent, the case shall be reported for the orders of the Sudder Court.

Subordinate Court how to proceed in such cases.

89. If the arrest was made under a warrant issued under Section 74 by a Magistrate subordinate to the Magistrate of the District, such Magistrate shall send the person arrested to the Magistrate of the District, unless the Magistrate in whose jurisdiction the offence is suspected to have been committed, shall issue his warrant for the arrest of such person, in which case the person arrested shall be delivered to the Police Officer or other person executing such warrant, or shall be sent to the Magistrate by whom such warrant was issued. If the offence of which the person arrested is suspected, shall have been com-

mitted in the jurisdiction of another Subordinate Court of the same District, the Magistrate who issued the warrant under Section 74, shall send the person arrested to the Magistrate in charge of the division in which the offence was committed.

Notification of substance of warrant.

90. A Police Officer or other person executing a warrant of arrest, shall notify the substance of the warrant to the person to be arrested, and, if required to do so, shall show the warrant to such person.

Warrant how to be executed.

91. In making an arrest, the Police Officer or other person executing the warrant shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting an endeavour to arrest.

92. If a person against whom a warrant of arrest is issued, shall forcibly resist the endeavour to arrest him, it shall be lawful for the Police Officer or other person executing the warrant to use all such means as may be necessary to effect the arrest.

Search of house entered into by person against whom warrant has been issued.

93. If there is reason to believe that any person against whom a warrant has been issued, has entered into, or is within any house or place, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Police Officer or other person executing the warrant, to allow such Police Officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Breaking of outer door or window.

94. The Police Officer or other person authorized by a warrant to arrest a person, may break open any outer or inner door or window of any house or place, whether that of the person accused or of any other person, in order to execute such warrant, if after notification of his authority and pur-

pose, and demand of admittance duly made, he cannot otherwise obtain admittance.

Breaking open a zenanah or female apartment.

95. If information be received that a person accused of any offence, for which a warrant may issue, is concealed in a zenanah or apartment in the actual occupancy of a woman, who, according to the customs of the country, does not appear in public, the Police Officer or other person employed to execute the warrant, shall take such precautions as may be necessary to prevent the escape of the accused person, and if the accused person shall not deliver himself up, the Police Officer or other person authorized to execute the warrant may, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance, break open such zenanah or apartment, and execute the process entrusted to him, first giving notice to any woman as aforesaid in such zenanah or apartment, not being a person against whom a warrant has been issued, that she is at liberty to withdraw, and affording her every reasonable facility for withdrawing.

No unnecessary restraint.

96. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

Party arrested to be brought immediately before the Magistrate.

97. The Officer or other person executing the warrant shall, without unnecessary delay, bring the person arrested before the Magistrate before whom he is required by this Act to produce him.

No threat, promise, or caution, as to disclosure by party arrested.

98. No Police Officer or other person shall offer to the person arrested any inducement, by threat or promise or otherwise, to make any disclosure. But no Police Officer or other person shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will.

99. The provisions relating to a warrant and its issue contained in this Chapter, shall be applicable to every warrant issued under this Act.

Provisions in this Chapter relating to a warrant and its issue applicable to all warrants.

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## CHAPTER VI.

### Of Arrest without Warrant.

100. A Police Officer in the cases hereinafter mentioned may, without orders from a Magistrate and without a warrant, arrest—

Police Officer may arrest without warrant in certain cases.

*First.*—Any person who in the sight of such Police Officer shall commit an offence specified in Column 3 of the Schedule annexed to this Act, as an offence for which Police Officers may arrest without a warrant.

*Secondly.*—Any person against whom a reasonable complaint has been made or a reasonable suspicion exists of his having been concerned in any such offence.

*Thirdly.*—Any person against whom a hue and cry has been raised of his having been concerned in any such offence.

*Fourthly.*—Any person who is a proclaimed offender.

*Fifthly.*—Any person who is found with stolen property in his possession.

*Sixthly.*—Any person who shall obstruct a Police Officer while in the execution of his duty.

101. An Officer in charge of a Police Station may, without orders from a Magistrate and without a warrant, arrest or cause to be arrested any person found lurking within the limits of such Station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself, or any person who is a reputed robber, house-breaker, thief, receiver of stolen property knowing it to be stolen, or who is of notoriously bad livelihood.

Vagabonds.

Police may interfere to prevent offences.

102. It shall be the duty of every Police Officer to prevent, and he may interpose for the purpose of preventing, the commission of any offence specified in Column 3 of the Schedule annexed to this Act as an offence for which Police Officers may arrest without a warrant.

Information to be communicated.

103. It shall be the duty of a Police Officer who shall receive information of a design to commit any such offence, to communicate such information to the Police Officer to whom he is subordinate, and to any other Officer whom it may concern to prevent or take cognizance of the commission of any such offence.

May arrest to prevent offences.

104. A Police Officer knowing of a design to commit any such offence as aforesaid, may arrest, without orders from a Magistrate and without a warrant, the person so designing, if the commission of the offence cannot be otherwise prevented.

Injury to public property.

105. A Police Officer may, of his own authority, interpose for the prevention of any injury attempted to be committed in his view to any public building, work of art, road, bridge, tank, well, or water channel, or to prevent the removal or injury of any public landmark or buoy or other mark used for navigation.

Person in charge of house entered into by another of whom Police Officer is in search, to allow ingress, &c.

106. If there is reason to believe that any person liable to arrest under this Chapter without a warrant of whom a Police Officer is in search, has entered into or is within any house or place, it shall be the duty of the person residing in or in charge of such house or place, on the demand of such Police Officer, to allow ingress thereto, and all reasonable facilities for a search therein.

Procedure if ingress be not obtained.

107. If ingress to such house or place cannot be obtained under the last preceding Section, the Police Officer authorized to make the arrest shall take such precautions as may be necessary to prevent the escape of the person to be arrested and send immediate information to a Magistrate. If no warrant can be obtained without affording such person an opportunity of escape, and there is no person authorized to enter without a warrant on the spot, the Police Officer may make an entry into such house or place and search therein.

Person charged with an offence refusing to give his name and residence.

108. Any person who is known or suspected to have committed an offence for which a Police Officer is not authorized to arrest without a warrant, and who shall refuse on demand of a Police Officer to give his name and residence, or shall give a name or residence which there is reason to believe to be false, may be detained by such Police Officer for the purpose of ascertaining the name or residence of such person and with a view to future proceedings.

Party arrested to be taken immediately before the proper authority.

109. A Police Officer having made an arrest under this Chapter, shall take or send the person arrested without unnecessary delay before the Magistrate who has jurisdiction in the case, or before the Officer in charge of a Police Station.

Arrest for an offence committed in the presence of a Magistrate.

110. When any offence is committed in the presence of a Magistrate, such Magistrate may order any person to arrest the offender, and may thereupon commit him to custody, or, if the offence is bailable, may admit him to bail.

Unlawful assembly to disperse on the order of a Magistrate, &c.

111. A Magistrate or Officer in charge of a Police Station may command an unlawful assembly to disperse, and it shall thereupon be the duty of the members of such unlawful assembly to disperse accordingly.

## CHAPTER VII.

### OF ESCAPE AND RE-TAKING.

Person arresting may re-take on escape and deal with the party arrested as on original taking.

112. If a person lawfully arrested under the provisions of this Act shall escape, or be rescued, it shall be lawful for the Police Officer or other person from whose custody the person so arrested shall have escaped, or have been rescued, to make fresh pursuit, and re-take him in any place, either within or without the jurisdiction where he was so in custody, and to deal with such person as such Police Officer or other person might have done on an original taking.

May adopt the same measures as on original taking.

113. In order to re-take any person, as provided in the last preceding Section, the Police Officer or other person making such fresh pursuit may adopt the same measures as he might have adopted on the original taking.

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## CHAPTER VIII.

### OF SEARCH WARRANT.

When grantable by a Magistrate.

114. When a Magistrate shall consider that the production of anything is essential to the conduct of an enquiry into an offence known or suspected to have been committed, he may grant his warrant to search for such thing; and it shall be lawful for the Officer charged with the execution of such warrant to search for such thing in any house or place within the jurisdiction of such Magistrate. In such case the Magistrate may specify in his warrant the house or place, or part thereof, to which only the search shall extend.

How to be directed.

115. A search warrant shall ordinarily be directed to a Police Officer, but the Magistrate issuing the search warrant, may, if immediate search is necessary, and no Police Officer be immediately available, direct the warrant to any other person.

A warrant to a Police Officer may be executed by another.

116. A search warrant directed to an Officer in charge of a Police Station may, if such Officer is not able to proceed in person, be executed by any Officer subordinate to such Officer. In such case the name of such subordinate Officer shall be endorsed upon the warrant by the Officer to whom the warrant is directed.

How to be executed out of jurisdiction of the Magistrate.

117. When it shall be necessary for a search warrant to be executed out of the jurisdiction of the Magistrate issuing the warrant, the Magistrate within whose jurisdiction the warrant is to be executed shall endorse his name on the warrant, which shall be sufficient authority for the Police Officer charged with the execution of such warrant to execute the same within the said jurisdiction, or the search warrant may be directed to the Magistrate within whose jurisdiction the search is to be made, and such Magistrate shall thereupon endorse his name on such warrant and enforce its execution in the same manner as if the warrant had been issued by himself.

Search warrants may in cases of emergency be executed without endorsement.

118. In any case in which there is reason to believe that the delay occasioned by obtaining the endorsement of the Magistrate in whose District the warrant is to be executed, will prevent the discovery of the thing for which search is to be made, the Police Officer charged with the execution of the search warrant, may execute the same in any place beyond the jurisdiction of the Magistrate by whom it was issued without the endorsement of the Magistrate in whose jurisdiction that place is situate. If the thing for

which search is made is found in such place, it shall be immediately taken before the Magistrate in whose jurisdiction it is found, and who, unless there be good cause to the contrary, shall make an order authorizing it to be taken to the Magistrate who issued the warrant.

Thing found to be taken immediately to the Magistrate within whose jurisdiction it is found.

119. If the thing searched for be found within the local limits of a Supreme Court of Judicature, it shall be taken to the Chief Commissioner of Police or to a Police Magistrate, who shall act in the manner prescribed in the last preceding Section.

Procedure in such cases within local limits of Supreme Court.

120. In any case in which it may appear necessary, a Magistrate may, by the warrant, order search to be made in a place out of his jurisdiction, and may direct that the warrant be executed either after or without obtaining the endorsement of the Magistrate within whose jurisdiction the search is to be made. When a Magistrate issues a warrant under this Section, he shall inform the Magistrate within whose jurisdiction the house or place to be searched is situate, or if the house or place be situate within the local limits of any Supreme Court of Judicature, he shall inform the Chief Commissioner of Police of the issue of such warrant.

Magistrate may, when necessary, issue search warrant to be executed in the jurisdiction of another Magistrate.

121. It shall be competent to a Magistrate issuing a warrant for the search of any house or place out of the jurisdiction of the Magistrate of the District, to direct the warrant to the Magistrate of the District in which such house or place is situate and to transmit the same by post. On receipt of the warrant by the Magistrate to whom it is directed, he shall endorse his name on the warrant and enforce its execution in the same manner as if the warrant had been originally

Magistrate may send search warrant by post to the Magistrate of another District.

Procedure to be observed by such Magistrate.

issued by himself. If the warrant is to be executed within the local limits of any Supreme Court of Judicature, it shall be addressed to the Chief Commissioner of Police or to a Police Magistrate. In such case any property found on search made, may be dealt with as provided in Sections 118 and 119.

Persons in charge of dwelling-house, &c., to allow the search.

122. If the house or place to be searched is closed, it shall be the duty of any person residing in or in charge of such house or place, on demand of the Officer or other person executing the warrant, to allow such Officer or other person free ingress thereto, and to afford all reasonable facilities for a search therein.

Place to be searched may be broken open.

123. A Police Officer, or other person authorized by a warrant to search any house or place, may break open any outer or inner door or window of the house or place, in order to execute such warrant, if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance.

Breaking of zenanah or female apartment.

124. If the place ordered to be searched is a zenanah or apartment in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, the Officer or other person charged with the execution of the warrant shall give notice to such woman in such zenanah or apartment, not being a woman against whom a warrant of arrest has been issued, that she is at liberty to withdraw, and, after giving such notice and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, such Officer or other person may enter such zenanah or apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of property.

125. The search of any house or place under this Chapter shall be made in the presence of two or more respectable inhabitants of the place in which the house or place searched is situate; but such persons shall not be required to attend the Court of the Magistrate as witnesses unless specially summoned by such Magistrate. The occupant of the house or place or some person in his behalf shall, in every instance, be permitted to attend during the search.

Search of house &c. to be made in the presence of witnesses.

Occupant of the place searched may attend.

126. In any case in which it shall be necessary to cause a female to be searched, the search shall be conducted with strict regard to the habits and customs of the country.

Mode of searching females.

127. If the Magistrate of the District or a Magistrate in charge of a division of a District, upon information and after such enquiry as he may think necessary, has reason to believe that any house or other place is used as a place for the deposit or sale of stolen property, or for the deposit or sale or manufacture of forged documents, or counterfeit Government stamps, or counterfeit coin, or instruments or materials for counterfeiting coin, or for forging, or that any forged documents or counterfeit stamps or false seals, or any counterfeit coin or instruments or materials used for counterfeiting coin, or for forging, are kept or deposited in any house or other place, he may by his warrant authorize any Police Officer above the rank of a constable, peon, or burkundaz to enter, with such assistance as may be required, and by force if necessary, any such house or other place, and to search all such parts of the same as shall be specified in the warrant, and to seize and take possession of any stolen property, documents, stamps, seals, or coins therein found which he may reasonably suspect to be forged, stolen, false, or counterfeit, and also of any such instruments and materials as aforesaid.

Search of house, &c. suspected to contain forged documents, &c.

Magistrate may attend personally.

128. The Magistrate by whom a search warrant is issued, may attend personally for the purpose of seeing that the warrant is duly executed. The Magistrate may also direct a search to be made in his presence of any house or place, for the search of which he is competent to issue a search warrant.

Inspection of weights and measures used in shops.

129. An Officer in charge of a Police Station may, without warrant, enter any shop or premises within the limits of such Station for the purpose of inspecting or searching for any weights or measures or instruments for weighing used or kept therein, whenever he shall have reason to believe that there are in such shop or premises any weights, measures, or instruments for weighing which are false. If such Police Officer shall find in such shop or premises any weights, measures, or instruments that are false, he may seize the same and shall forthwith give information of such seizure to the Magistrate having jurisdiction.

Procedure by Police Officer upon seizure of stolen property found on an offender.

130. The seizure by any Police Officer of property alleged or suspected to have been stolen, or of property seized by any Police Officer under circumstances which create suspicion of the committal of any offence, shall be forthwith reported to the Magistrate of the District, who shall thereupon make such order respecting the custody and production of the property as he shall think proper.

Procedure if such property be unclaimed.

131. When any such property shall be unclaimed, the Magistrate of the District may detain the same and shall issue a proclamation specifying the articles of which such property consists, and requiring any person who may have a claim to the property to appear and establish his claim thereto within six months from the date of such proclamation.

Procedure if no claimant appear within six months from date of proclamation.

132. If no person shall, within the period allowed, claim such property, and if the person in whose possession such property was found shall be unable to show that it was legally acquired by him, the property shall be at the disposal of the Government, and may be sold under the orders of the Magistrate of the District.

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## CHAPTER IX.

### PRELIMINARY ENQUIRY BY THE POLICE.

Police Officers to make enquiry into certain offences only when directed to do so by Magistrate.

133. No Police Officer shall, without an express order from a Magistrate, enquire into or take cognizance of any offence punishable under the Indian Penal Code, other than the offences described in Column 3 of the Schedule annexed to this Act, as offences for which a Police Officer may arrest without warrant. But it shall be competent to a Magistrate, upon the report of a Police Officer or otherwise, to direct enquiry to be made by a Police Officer into any offence punishable under the Indian Penal Code or under any special or local law.

Saving of powers vested in Police Officers by any special or local law.

134. Nothing in the last preceding Section shall be held to interfere with the exercise of any powers which are vested in a Police Officer by any special or local law, or with the performance of any duty which is imposed upon a Police Officer by any such special or local law.

Upon complaint preferred, Officer in charge of a Police Station to proceed in person or depute a Subordinate Officer to make enquiry.

135. Upon complaint or information being preferred to an Officer in charge of a Police Station of the commission within the limits of such Station of any of the offences specified in Column 3 of the Schedule annexed to this Act, as offences for which Police Officers may arrest

without warrant, he shall send immediate intimation to the Magistrate having jurisdiction, and shall proceed in person, or shall depute one of his Subordinate Officers to proceed to the spot to enquire into the facts and circumstances of the case, and to take such measures as may be necessary for the discovery and apprehension of the offender. Any Magistrate, on receiving intimation of the commission of any such offence, may at once proceed, or depute an Officer exercising any of the powers of a Magistrate to proceed to hold a preliminary enquiry into or otherwise to dispose of such case in the manner provided in this Act.

Except in cases not of a serious nature where local enquiry not necessary.

136. Provided that when any complaint is made against any person by name, and the case is not of a serious nature, it shall not be incumbent on the Officer in charge of a Police Station to proceed in person or to depute a Subordinate Officer to make an enquiry on the spot, unless such local enquiry shall appear to be necessary.

If Police Officer see no sufficient ground for an enquiry.

137. If on any complaint or information being preferred to an Officer in charge of a Police Station, it shall appear to such Officer that there is no sufficient ground for entering on an enquiry, or that the immediate apprehension of the accused is not necessary for the ends of justice, he shall abstain from proceeding in the case, and shall report the substance of the complaint or information for the orders of the Magistrate.

All persons to give information of offences.

138. It shall be the duty of every person who is aware of the commission of any offence made punishable under Sections 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459, or 460 of the Indian Penal Code, to give information of the same to the nearest Police Officer whenever he shall have reason to believe that, if such information be withheld, the person who

committed the offence may not be brought to justice, or may have his escape facilitated.

Complaint, &c., to be in writing.

139. Every complaint or information preferred to an Officer in charge of a Police Station, shall be reduced into writing, and the substance thereof shall be entered in a diary to be kept by such Officer in such form as shall be prescribed by the local Government.

Procedure when a Police Officer deputes another.

140. When any Officer in charge of a Police Station requires any Officer subordinate to him to make without warrant an arrest which may lawfully be made by such Officer without warrant, he shall deliver to the Police Officer required to make such arrest, an order in writing, specifying the person to be arrested, and the offence for which the arrest is to be made.

Police may pursue offenders into other jurisdictions.

141. It shall be lawful for a Police Officer to pursue, with a view to arrest, any person accused of any of the offences specified in Column 3 of the Schedule annexed to this Act, as offences for which Police Officers may arrest without warrant, into the limits of another Police Officer, whether subordinate to the same Magistrate as himself or to the Magistrate of any other District, and whether such place be under the same local Government or not.

Issue of search warrants by Police Officer.

142. Whenever an Officer in charge of a Police Station shall consider that the production of any thing is essential to the conduct of an enquiry into any offence which he is authorized to investigate, it shall be lawful for him to search or cause a search to be made for the same in any house or place within the limits of such Station. In such case, the Officer in charge of the Police Station shall, if practicable, conduct the search for such thing in person. If unable to conduct the search in person, and there is no other person competent to make the search present

at the time, it shall be lawful for the Officer in charge of the Police Station to require any Officer subordinate to him to make the search, and he shall deliver to such Officer an order in writing specifying the property for which search is to be made and the house or place to be searched, and it shall thereupon be lawful for such Subordinate Officer to search for such property in such house or place. The provisions of Sections 122, 123, 124, and 125, relating to search warrants, shall be applicable to a search made by or under the direction of an Officer in charge of a Police Station, under this Section.

When one Officer of a Police Station may require another to issue a search warrant.

143. An Officer in charge of a Police Station may require an Officer in charge of another Police Station, whether subordinate to the same Magistrate as himself or to a Magistrate of another District, to cause a search to be made in any house or place in any case in which he might cause such search to be made within the limits of his own Station.

Witnesses to be summoned.

144. An Officer in charge of a Police Station may by an order in writing, require the attendance before himself of any person being within the limits of his Station, who, from the statement of the complainant or otherwise, appears to be acquainted with the facts and circumstances of any case into which he is enquiring under Section 135, and such person shall be bound to obey such requisition.

Oral examination of witnesses by Police.

145. It shall be lawful for an Officer in charge of a Police Station or other Police Officer making an enquiry, to examine orally any person who is supposed to be acquainted with the facts and circumstances of the case. Nothing in this Section shall preclude such Police Officer from reducing into writing any statement made by the person so examined. Provided that any statement so reduced into writing

Proviso.

shall not be signed by the person making it, nor shall it be treated as part of the record or used as evidence.

No inducement to be offered to accused persons to confess.

146. No Police Officer or other person shall offer any inducement to an accused person by threat or promise or otherwise to make any disclosure or confession.

Police Officer not to record confession.

147. No Police Officer shall record any statement or any admission or confession of guilt, which may be made before him by a person accused of any offence. Provided that nothing in this Section shall preclude any Police Officer from reducing any such statement or admission or confession into writing for his own information or guidance.

Proviso

Confession made while the accused is in custody of the Police shall not be used as evidence.

148. No confession or admission of guilt made to a Police Officer, shall be used as evidence against a person accused of any offence.

Confession made while the accused is in custody of the Police shall not be used as evidence.

149. No confession or admission of guilt made by any person whilst he is in the custody of a Police Officer, unless it be made in the immediate presence of a Magistrate, shall be used as evidence against such person.

Police Officer may give in evidence so much of any statement or confession made by the accused as relates distinctly to a fact thereby discovered.

150. When any fact is deposed to by a Police Officer as discovered by him in consequence of information received from a person accused of any offence, so much of such information, whether it amounts to a confession or admission of guilt or not, as relates distinctly to the fact discovered by it, may be received in evidence.

Enquiry by the Police

151. If the person arrested appears from the information obtained to have committed the offence charged, and the offence is not bailable, the Officer in charge of

the Police Station shall forward him under custody to the Magistrate having jurisdiction in respect of the offence, and shall bind over the prosecutor and witnesses to appear on a fixed day before such Magistrate. When any subordinate Police Officer has made any enquiry under this Chapter, he may be required by the Officer in charge of the Police Station to submit a report of such enquiry to him, or may do so without such instructions, and the Officer in charge of the Police Station shall then proceed as if he had made the enquiry himself.

Accused not to be detained by the Police beyond 24 hours without special authority.

152. No Police Officer shall, without the special order of a Magistrate, detain an accused person in custody for a longer period than, under all the circumstances of the case, is reasonable: such period in no case to exceed twenty-four hours. If the enquiry has not been completed within twenty-four hours, the Officer in charge of the Police Station shall, nevertheless, forward the accused to the Magistrate with a short despatch stating the offence for which the accused has been arrested, if there are grounds for believing that the accusation is well founded.

Police how to proceed in cases of deficient evidence.

153. If it shall appear to the Officer in charge of the Police Station that there is not sufficient evidence or reasonable ground of suspicion to justify the transmission of the accused to the Magistrate, he shall release the accused on bail, or on his own recognizance, to appear when required, and shall submit a report of the case for the orders of the Magistrate.

Daily record of proceedings.

154. A Police Officer making an enquiry under this Chapter, shall day by day enter his proceedings in a Diary, setting forth the time at which the complaint or other information reached him, the time at which he began and closed his enquiry, the place or places visited by him, and a statement of the circum-

stances elicited by his enquiry, and shall forward day by day a copy of such Diary to the District Superintendent of Police, who shall without delay bring to the notice of the Magistrate of the District any part of such Diary which he shall consider it to be important that such Magistrate shall know. The Magistrate of the District shall be entitled to call for and inspect such Diary. In cases where there is no District Superintendent of Police, the Police Officer shall forward day by day a copy of the Diary to the Magistrate of the District. Such Diary shall not be evidence of the facts stated therein, except against the Police Officer who made it.

Report of Police Officer of what to consist.

155. The enquiry shall be completed without unnecessary delay, and as soon as it is completed, the Police Officer making the enquiry shall forward to the Magistrate a report in such form as shall be prescribed by the local Government, setting forth the names of the parties, the nature of the complaint, and the names of the witnesses, without any expression of opinion as to the guilt of the accused, and shall also transmit any weapon or article which it may be necessary to produce before the Magistrate. The Police Officer shall state whether the accused person has been forwarded in custody, or has been released on bail or on his own recognizance. If the accused person be detained in custody, he shall state the fact and the cause of his detention.

Bail.

156. A person accused of any offence entered as not bailable in Column 5 of the Schedule annexed to this Act, shall not be admitted to bail, if there appear reasonable ground for believing that he has been guilty of the offence imputed to him. But a person accused of any other offence, shall be admitted to bail, if sufficient bail be tendered for appearance before the Magistrate having jurisdiction in respect of the offence.

157. The bail to be taken under the last preceding Section shall not be excessive; and the surety or sureties shall bind himself or themselves under a specific penalty to produce the accused person, before the Magistrate on or before a fixed day, to answer the complaint.

Bail not to be excessive. Terms of security.

158. Every prosecutor and witness, whose attendance before the Magistrate may be deemed necessary by the Police Officer making the enquiry, shall execute a recognizance in the Form (E) given in the Appendix, or to the like effect, for appearance before the Magistrate having jurisdiction in respect of the offence on a fixed day, which shall be the day whereon the accused is to appear, if he shall have been admitted to bail, or the day on which he may be expected to arrive at the Court of the Magistrate if he is to be forwarded in custody. The Officer in whose presence the recognizance is executed, shall forward it with his report to the Magistrate, and shall deliver to the prosecutor and witnesses a duplicate of the despatch. The prosecutor or witnesses, unaccompanied by any Police Officer, shall be required to deliver in person such duplicate to the Magistrate.

Prosecutors and witnesses to execute recognizances to appear before the Magistrate.

159. A Police Officer shall not subject any prosecutor or witness to restraint or unnecessary inconvenience, nor require them to give any other security for their appearance than their own recognizances; but if any prosecutor or witness shall refuse to attend, or to execute the recognizance directed in the last preceding Section, it shall be competent to the Officer in charge of a Police Station to forward such prosecutor or witness under custody to the Magistrate, who may detain such prosecutor or witness in custody, until he shall execute such recognizance, or until the hearing before the Magistrate.

Prosecutors and witnesses not to be subject to restraint.

Recusant prosecutor or witness may be forwarded in custody.

160. Officers in charge of Police Stations shall report to the Magistrate of the District the cases of all persons apprehended within the limits of their respective Stations, whether such persons shall have been admitted to bail or otherwise; and no person who has been apprehended shall be discharged, except on bail, or on his own recognizance, or under the special order of a Magistrate.

Police to report all apprehensions.

161. It shall be the duty of the Officer in charge of a Police Station, on receiving notice or information of the unnatural or sudden death of any person, immediately to give intimation to the nearest Magistrate, and to proceed to the place where the body of such deceased person is, and there in the presence of two or more respectable inhabitants of the neighbourhood, to make enquiry and report the apparent cause of death, describing any mark of violence which may be found on the body, and stating in what manner or by what weapon or instrument such mark appears to have been inflicted. The report shall be signed by such Police Officer and other persons or by so many of them as shall concur therein, and shall be forthwith forwarded to the Magistrate. When there may be any doubt regarding the cause of death, such Police Officer shall forward the body with a view to its being examined by the Civil Surgeon, if the state of the weather and distance will admit of its being so forwarded without risk of putrefaction on the road. In the Presidencies of Madras and Bombay, it shall be the duty of the Head of the Village in like manner to make the enquiry and report as aforesaid.

Police to make immediate enquiry and report on unnatural and sudden deaths.

162. The powers to be exercised by an Officer in charge of a Police Station under this Chapter, shall be exercised in the event of his absence or illness by the Police Officer next in rank present at the Police Station, above the rank of a constable, peon, or burkandaz.

By whom the powers of the Officer in charge of Police Station may be exercised in his absence or illness.

## CHAPTER X.

### Of Contempts and Disobedience of Orders.

Procedure in certain cases of contempt.

163. When any such offence as is described in Sections 175, 178, 179, 180, or 228, of the Indian Penal Code, is committed in the view or presence of any Civil, Criminal, or Revenue Court, it shall be competent to such Court to cause the offender, whether he be a European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day to take cognizance of the offence; and to adjudge the offender to punishment by fine not exceeding two hundred Rupees, or by imprisonment in the Civil Jail for a period not exceeding one month, unless such fine be sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. If the Court, in any case, shall consider that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding two hundred Rupees should be imposed upon him, such Court, after recording the facts constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate or Justice of the Peace, or, if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment, as provided in the Section of the Indian Penal Code under which he is charged. If the case be forwarded to a Justice

of the Peace, such Justice of the Peace shall enquire into the circumstances, and, shall have the same powers of punishing the offender as are vested by the Statute 53, George III. c. 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature. In no case tried under this Section shall any Magistrate adjudge imprisonment, or a fine exceeding two hundred Rupees for any contempt committed in his own presence against his own Court.

Discharge of an offender on his submission.

164. When any person has been sentenced to punishment, or forwarded to a Magistrate or Justice of the Peace for trial, under the last preceding Section, for refusing or omitting to do anything which he was lawfully required to do, it shall be competent to the Court to discharge the offender, or to remit the punishment, on the submission of the offender to the order or requisition of such Court.

Procedure in all except certain cases when the offender is a European British subject.

165. When any such offence as is described in Chapter X. of the Indian Penal Code, except Sections 175, 178, 179, and 180, is committed in contempt of the lawful authority of any Civil, Criminal, or Revenue Court by a European British subject, such offence shall be cognizable only by a Magistrate who is a Justice of the Peace, and such Magistrate shall have the same powers of punishment for such offence as are vested by the Statute 53 George III. c. 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender on conviction in the same manner as is provided in that behalf in the said Statute. If such Magistrate shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award

under the said Statute, he may commit the offender to a Supreme Court of Judicature.

## CHAPTER XI.

### PROSECUTIONS IN CERTAIN CASES.

Prosecutions for certain offences not to be instituted but under authority of Government or of a duly empowered Officer.

166. A charge of an offence punishable under Chapter VI. of the Indian Penal Code, except Section 127, shall not be entertained by any Court, unless the prosecution be instituted by order of, or under authority from, the Governor General of India in Council, or the local Government, or some Officer empowered by the Governor General in Council to order or authorize such prosecution, or unless instituted by the Advocate General.

Prosecution against Judges, &c.

167. A charge of an offence punishable under the Indian Penal Code, of which any Judge or any public servant not removeable from his office without the sanction of the Government, is accused as such Judge or other public servant, shall not be entertained against such Judge or public servant, except with the sanction or under the direction of the local Government, or of some Officer empowered by the local Government, or of some Court or other authority to which such Judge or other public servant is subordinate, and whose power so to sanction or direct such prosecution the local Government shall not think fit to limit or reserve.

Prosecution for certain offences under Chapter X. of the Penal Code not to be instituted but with the sanction of the public servants concerned.

168. A charge of a contempt of the lawful authority of any Court or public servant, or of any other offence against a public servant as such, described in Chapter X. of the Indian Penal Code, not falling within Section 163 of this Act, shall not be entertained in any Criminal Court, except with the sanction or on the complaint of the Court or public servant

concerned, or, if such servant is an inferior ministerial servant, with the sanction or on the complaint of his official superior. The prohibition contained in this Section shall not apply to the offences described in Sections 189 and 190 of the Indian Penal Code.

Prosecution for certain offences against public justice not to be instituted but with the sanction of the authority before which the offence was committed.

169. A charge of an offence against public justice, described in Sections 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, 210, 211, or 228 of the Indian Penal Code, when such offence is committed before or against a Civil or Criminal Court, shall not be entertained in the Criminal Courts, except with the sanction of the Civil or Criminal Court before or against which the offence was committed, or of some other Court to which such Court is subordinate. Such sanction may be given at any time.

Prosecution for certain offences relating to documents not to be instituted but with the sanction of the Court in which such documents were given in evidence.

170. A charge of an offence relating to documents described in Sections 463, 471, 475, or 476 of the Indian Penal Code, when the document shall have been given in evidence in any proceedings in any Court, Civil or Criminal, shall not be entertained in any Criminal Court against a party to such proceedings, except with the sanction of the Court in which the document was given in evidence, or of some other Court to which such Court is subordinate. Such sanction may be given at any time.

Mode of proceeding in cases mentioned in the three last preceding Sections.

171. When any Court, Civil or Criminal, is of opinion that there is sufficient ground for investigating any charge mentioned in the last three preceding Sections, the Court, after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having power to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law, and the Court shall have power to send the person accused in custody or to

take sufficient bail for his appearance before such Magistrate, and may bind over any person to appear and give evidence on such investigation.

Power of Court of Session in respect of such offences committed before it.

172. It shall be competent to a Court of Session to charge a person for any such offence committed before it or under its own cognizance if the offence be triable by the Court of Session exclusively, and to commit or hold to bail and to try such person upon its own charge. In such case the Court of Session shall have the same power of summoning and causing the attendance at the trial of any witnesses for the prosecution or for the defence which is vested in a Magistrate by this Act. Such Court may direct the Magistrate to cause the attendance of such witnesses on the trial.

Civil Courts empowered to complete investigation and commit accused to Court of Session.

173. In any case triable by the Court of Session exclusively, it shall be lawful for any Court of Civil Judicature before which any such offence was committed, instead of sending the case for investigation to a Magistrate, to complete the investigation itself, and to commit or hold to bail the accused person to take his trial before the Court of Session.

Procedure by Civil Court in such cases.

174. When any such commitment is made by order of a Civil Court, the Court shall frame a charge in the manner hereinafter provided, and shall transmit the same with the order of commitment and the record of the case to the Magistrate of the District or other Officer exercising any of the powers of a Magistrate, and such Magistrate or other Officer as aforesaid shall bring the case before the Court of Session, together with the witnesses for the prosecution and defence.

Court of Session or Civil Court may exercise all the powers of a Magistrate as to binding over persons to give evidence.

175. Whenever any Court of Session or Civil Court shall commit or hold to bail any person for trial under the last three preceding Sections, such Court may also bind over any person to

give evidence, and for that purpose may exercise all the powers of a Magistrate.

Magistrates not empowered to commit to send the case to Magistrate competent to do so.

176. If any such offence, triable by the Court of Session exclusively, be committed before a Magistrate not empowered to commit for trial before a Court of Session, such Magistrate shall send the case to a Magistrate competent to make such commitment, who shall proceed to pass such order in the case as he may think proper.

Prosecution for adultery not to be instituted except by the husband

177. A charge of an offence under Section 497 of the Indian Penal Code shall not be instituted except by the husband of the woman.

Prosecution for enticing away a married woman not to be instituted except by husband or person in charge of the woman.

178. A charge of an offence under Section 498 of the Indian Penal Code, shall not be instituted, except by the husband of the woman or by the person having care of such woman on behalf of her husband.

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## CHAPTER XII.

### OF PRELIMINARY ENQUIRY BY THE MAGISTRATE IN CASES TRIABLE BY THE COURT OF SESSION.

Magistrate may issue his arrant.

179. When a complaint is made before a Magistrate that any person has committed, or is suspected to have committed any of the offences pecified in Column 7 of the Schedule annexed to his Act as triable exclusively by the Court of ession, or which in the opinion of such Magisate ought to be tried by the Court of Session, shall be lawful for such Magistrate to issue his rrant to apprehend such person. Provided that

in any such case the Magistrate to whom such complaint is made may, if he shall think fit, instead of issuing in the first instance his warrant to apprehend the person so complained against, issue his summons requiring him to appear to answer to such complaint.

May issue a summons instead of a warrant.

180. If the Magistrate see cause to distrust the truth of the complaint, he may postpone the issuing of process for causing the attendance of the person complained against, and direct a previous enquiry to be made into the truth of the complaint, either by means of any Officer subordinate to such Magistrate, or of a local Police Officer, or in such other mode as he shall judge most proper, for the purpose of ascertaining the truth or falsehood of the complaint. If such enquiry is made by means of some person other than an Officer exercising any of the powers of a Magistrate or a Police Officer, such person shall exercise all the powers vested by this Act in an Officer in charge of a Police Station, except that he shall have no power to make an arrest. Nothing contained in this Section shall prevent the Magistrate from at once dismissing the complaint, if in his judgment there be no sufficient ground for proceeding with it.

Postponement of issue of process.

May dismiss the complaint.

181. It shall be in the discretion of the Magistrate in issuing his warrant for the arrest of any person against whom a complaint has been made, to direct by endorsement on the warrant that if such person be willing and ready to give bail in a sum to be fixed by the Magistrate for his appearance before the Magistrate to be named in the warrant on a specified day to answer the complaint, the Officer to whom the warrant is directed shall accept such bail, and shall release the person from custody. In the event of bail being given, the Officer shall forward the bail-bond to the Magistrate.

Magistrate may direct bail to be taken.

182. The Magistrate may, if he see sufficient cause, dispense with the personal attendance of the accused person, and permit him to appear by an agent duly authorized to act in his behalf. But it shall be in the discretion of the Magistrate, at any stage of the proceedings, to direct the personal attendance of the accused person.

Magistrate may dispense with the personal attendance of the accused.

183. If any person accused of an offence absconds or conceals himself, so that upon a warrant issued against him he cannot be found, the Magistrate shall, if satisfied that such person absconds or conceals himself for the purpose of avoiding the service of the warrant, issue a written proclamation, requiring such person to appear to answer the complaint within a fixed period not less than thirty days. The proclamation shall be publicly read in some conspicuous place of the town or village in which such person usually resides, and shall be affixed on some conspicuous part of the ordinary place of abode of such person, or on some conspicuous place of such town or village. A copy of the proclamation shall also be affixed on some conspicuous part of the Courthouse of the Magistrate.

Proclamation for an absconding party.

184. The Magistrate may, at the same time, order the attachment of any moveable or immoveable property belonging to the person absconding or concealing himself. Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of property in the jurisdiction of any Magistrate by whom such order is endorsed. The attachment under this Section shall, if the property ordered to be attached be land paying revenue to Government, be made through the Collector of the District in which the land is situate, and in all other cases by seizure under the order of the Magistrate or by the appointment of a manager and

Attachment of the property of absconding party.

receiver, or by an order prohibiting the payment of rent to the absent person, as the Magistrate shall deem proper. If the absent person shall not appear within the time specified in the proclamation, the property under attachment shall be declared to be at the disposal of Government, but shall not be sold until the expiration of six calendar months, unless such property is of a perishable nature, or it shall be considered by the Magistrate that the sale would be for the benefit of the owner.

Restoration of property declared to be forfeited.

185. When any person whose property shall have been declared to be at the disposal of Government under the last preceding Section shall, within two years after the attachment of the property, surrender himself, and shall upon trial before a competent Court, prove to the satisfaction of such Court that he did not abscond or conceal himself for the purpose of evading justice, such property, or if the same shall have been sold, the proceeds thereof, shall be restored to him.

Summons to a witness to attend and give evidence.

186. The Magistrate shall ascertain from the complainant, or otherwise, the names of any persons who may be acquainted with the facts and circumstances of the case, and who are likely to give evidence for the prosecution, and shall issue his summons to such persons, requiring them to appear at a time and place mentioned in the summons before such Magistrate to testify what they know concerning the complaint made against the accused person.

Form of summons to the witness, and mode of service thereof.

187. Every summons issued by a Magistrate under the last preceding Section, shall be served personally on the witness, or if the witness be not found, may be left for him with some adult male member of his family residing with him.

In what cases warrant in the first instance.

188. If the Magistrate shall see reason to believe that such witness will not attend to give evidence without being

compelled to do so, it shall be lawful for such Magistrate, instead of issuing a summons, to issue his warrant in the first instance.

If warrant cannot be served.

189. If the warrant cannot be served, and the Magistrate is satisfied that the witness absconds or conceals himself for the purpose of avoiding the service thereof, the Magistrate may issue a proclamation, requiring the attendance of such witness to give evidence at a time and place to be named therein, to be affixed on some conspicuous part of his ordinary place of abode, and if such witness shall not attend at the time and place named in such proclamation, the Magistrate may order the attachment of any moveable property belonging to such witness to such amount as he shall deem reasonable, not being in excess of the amount of costs of attachment and of any fine to which such witness may be liable under the provisions of the following Section. Such order shall not authorize the attachment of any property out of the jurisdiction of the Magistrate by whom it is made, but it shall authorize the attachment of property in the jurisdiction of any Magistrate by whom such order is endorsed.

If on attachment witness appear and satisfy Magistrate, his property to be released from attachment.

190. If the witness shall appear and satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Magistrate shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as he shall deem fit. If such witness shall not appear, or appearing, shall fail to satisfy the Magistrate that he did not abscond or conceal himself for the purpose of avoiding the service of the warrant, and that he had not such notice of the proclamation as aforesaid, it shall be law-

If he do not appear or satisfy Magistrate, property to be sold.

ful for the Magistrate to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Magistrate may impose upon such witness under the provisions of Section 172 of the Indian Penal Code. If the witness shall pay to the Magistrate the costs and fine as aforesaid, the Magistrate shall order the property to be released from attachment.

If he do not obey the summons, then warrant.

191. If any person summoned to give evidence, shall neglect or refuse to appear at the time and place appointed by the summons, and no just excuse shall be offered for such neglect or refusal, it shall be lawful for the Magistrate, upon proof of the summons having been duly served, to issue a warrant, under his hand and seal, to bring such person before him to testify as aforesaid.

Refusing answer, may be committed to custody.

192. Any person summoned or brought before a Magistrate, shall refuse to answer such questions as shall be put to him, without offering any just excuse for such refusal, the Magistrate may, by warrant, under his hand and seal, commit the person refusing, to custody for any term not exceeding seven days, unless he shall, in the meantime, consent to be examined and to answer, after which, in the event of his persisting in his refusal, he may be dealt with according to the provisions of Section 163 of this Act.

Examination of the complainant and witnesses for the prosecution.

193. The Magistrate shall take the evidence of the complainant, and of such persons as are stated to have any knowledge of the facts which form the subject matter of the accusation and the attendant circumstances.

To be in the presence of the accused who may cross-examine.

194. The complainant and the witnesses for the prosecution shall be examined in the presence of the accused person, or of his Agent when his personal attendance is dispensed with and he appears

by Agent. The accused or his Agent shall be permitted to cross-examine the complainant and his witnesses.

Mode and language in which the evidence is to be recorded.

195. The evidence of each witness shall be taken down in writing in the language in ordinary use in the District in which the Court is held, by or in the presence and hearing and under the personal direction and superintendence of the Magistrate, and shall be signed by the Magistrate. When the evidence of a witness is given in English, the Magistrate may take it down in that language with his own hand, and an authenticated translation of the same in the language in ordinary use in the District in which the Court is held, shall form part of the record. In cases in which the evidence is not taken down in writing by the Magistrate, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Magistrate with his own hand, and shall be annexed to the record. If the Magistrate shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

Local Government may direct the evidence to be recorded in the vernacular language of the Magistrate.

196. It shall be competent to the local Government to direct that in any District or part of a District to which this Act shall extend, or shall hereafter be extended, under the provisions of Section 445, the evidence of witnesses shall be taken down by the Magistrate with his own hand in the Vernacular language of the Magistrate, unless the Magistrate be prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court. The evidence so taken down shall be signed by the Magistrate, and form part of the record.

Proviso.

Provided that, if the Vernacular language of the

Magistrate be not English or the language in ordinary use in the District in which the Court is held, the Magistrate may be directed by the local Government to take down the evidence in the English language or in the language in ordinary use in the District in which the Court is held, instead of his own Vernacular.

Local Government to decide what is the language in ordinary use in any District.

197. If any question shall arise as to what is the language in ordinary use in any District in which a Court is held, that question shall, for the purposes of this Act, be determined by the local Government.

How the evidence is to be recorded.

198. The evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative. It shall be in the discretion of the Magistrate to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any person who is a prosecutor, or a person accused, or his Counsel or Agent, shall require it. When the evidence is completed, it shall be read over to the witness in the presence of the person accused if in attendance, or of his Agent when his personal attendance is dispensed with and he appears by Agent, and shall, if necessary, be corrected. If the witness shall deny the correctness of any part of the evidence when the same is read over to him, the Magistrate may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as he may think necessary. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his evidence as taken down to be interpreted to him in the language in which it was given, or in a language which he understands.

199. A memorandum to be signed by the Magistrate shall be attached to the evidence of each witness, and shall state that the evidence was read over to the witness in a language which he understood (naming the language), and if the fact is so, that the witness acknowledged such evidence to be correct. When the evidence is not taken down by the Magistrate with his own hand, the memorandum shall further state that the evidence was taken down in the presence and hearing of the Magistrate, and under his personal direction and superintendence.

Memorandum to be attached to the evidence.

200. If the evidence is given in a language not understood by the accused, it shall be interpreted to him in open Court in a language understood by him, in all cases where the accused is present in person. If the accused appears by Agent, and the evidence is given in a language other than the language in ordinary use in the District in which the Court is held, it shall be interpreted to such agent in that language.

In what cases evidence to be interpreted to the accused or his Agent.

201. It shall be in the discretion of the Magistrate at any stage of the proceedings to summon and examine any person, whose evidence he may consider essential to the enquiry.

Power of Magistrate at any stage to summon and examine any person.

202. It shall be in the discretion of the Magistrate, from time to time, at any stage of the enquiry, to examine the accused person, and to put such questions to him as he may consider necessary. It shall be in the option of the accused person to answer such questions.

Examination of defendant.

203. No influence, by means of any promise or threat or otherwise, shall be used to the accused person to induce him to disclose or withhold any matter within his knowledge; but if the accused person shall, of his own accord, propose to confess the

No influence to be used to induce disclosures.

commission by him of the offence of which he is accused, the Magistrate shall require him to give an account of the facts and circumstances in detail, and shall examine him thereupon in the same manner as if he were a witness.

Magistrate how to proceed in case of confession.

204. No oath or affirmation shall be administered to the accused person.

Accused person not to be sworn.

205. The examination of the accused person, including every question put to him and every answer given by him, shall be recorded in full, and shall be shown or read to him, and he shall be at liberty to explain or add to his answers; and when the whole is made conformable to what he declares is the truth, the examination shall be attested by the signature of the Magistrate, who shall certify under his own hand that it was taken in his presence and in his hearing, and contains accurately the whole of the statement made by the accused person.

Examination of the accused how to be recorded.

206. Any person attending the Court of the Magistrate, although not upon an arrest or summons on a charge made, may be detained by the Magistrate for the purpose of examination, for any offence which from the evidence he may appear to have committed, and may be proceeded against as though he had been arrested or summoned on a charge made.

Any person attending may be detained for any offence committed by him.

207. It shall be at the discretion of the Magistrate to summon any witness who may be offered in behalf of the accused person to answer or disprove the evidence against him.

Discretionary with the Magistrate to take evidence for the defence.

208. The provisions of Sections 187, 188, 189, 190, 191, and 192 of this Act shall be applicable to witnesses named in support of the defence.

Witnesses for the defence.

Magistrate may tender a pardon in certain cases.

209. It shall be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, recording his reason for so doing, to tender a pardon to any one or more of the persons supposed to have been directly or indirectly concerned in or privy to any offence specified in Column 7 of the Schedule annexed to this Act as triable by the Court of Session, on condition of his or their making a full, true, and fair disclosure of the whole of the circumstances within his or their knowledge relative to the crime committed, and every other person concerned in the perpetration thereof. If any person shall accept a tender of pardon under this Section, he shall be examined as a witness in the case under the rules applicable to the examination of witnesses. Such person, if not on bail, may, if the Magistrate or other Officer as aforesaid shall think proper, be detained in custody pending the termination of the trial.

When Sudder Court or Court of Session may direct a tender of pardon.

210. It shall be competent to a Court of Session at the time of trial, and also to the Sudder Court, as a Court of reference, in cases tried with the aid of Assessors, to instruct the Magistrate in like manner to tender a pardon to one or more persons supposed to have been directly or indirectly concerned in or privy to any such offence, with the view of obtaining his or their evidence on the trial.

When Sudder Court or Court of Session may direct the commitment of a person to whom a pardon may have been tendered.

211. If it shall appear to a Court of Session at the time of trial, or to the Sudder Court as a Court of reference, that any person who shall have accepted an offer of pardon, has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence or information, it shall be competent to such Court to direct the commitment of such person for trial for

the offence in respect of which the pardon was tendered.

Bail not to be taken for certain offences.

212. When any person shall appear or be brought before a Magistrate accused of any offence entered as not bailable in Column 5 of the Schedule annexed to this Act, such person shall not be admitted to bail, if there appear reasonable grounds for believing that he has been guilty of the crime imputed to him; but if the evidence given in support of the accusation shall, in the opinion of the Magistrate, not be such as to raise a strong presumption of the guilt of the accused person and to require his committal, or such evidence shall be adduced on behalf of the accused person as shall, in the opinion of the Magistrate, weaken the presumption of his guilt, but there shall appear to the Magistrate in either of such cases to be sufficient ground for further enquiry into his guilt, the accused person shall be admitted to bail pending such enquiry.

When may be taken.

When bail shall be taken.

213. When any person shall appear or be brought before a Magistrate accused of any of the offences specified in Column 5 of the Schedule annexed to this Act, as bailable, he shall be admitted to bail.

Recognizance of accused and sureties.

214. When a Magistrate shall admit to bail any person accused or suspected of any offence, a recognizance in such sum of money as the Magistrate may think sufficient shall be entered into by the person so accused and one or more sureties, conditioned that such person shall attend during the preliminary enquiry, and if required, shall appear when called upon at the Court of Session to answer the charge.

Insufficient bail.

215. If through mistake or fraud insufficient bail has been taken, or if the sureties become afterwards insufficient, the accused may be ordered by the Magistrate to find

sufficient sureties, and in default, may be committed to prison.

Bail may be taken at any time before conviction.

216. If the accused person cannot find sureties when called upon, he shall be admitted to bail upon finding the same at any time afterwards before conviction.

Discharge on bail.

217. After the recognizances shall have been duly entered into, the Magistrate, in case the accused person shall have appeared voluntarily, or shall be in the custody of some Officer, shall thereupon discharge him; and in case he shall be in some prison or other place of confinement, shall issue a warrant of discharge to the jailor or other person having him in his custody, and such jailor or other person shall thereupon liberate him.

Discharge of sureties.

218. The sureties for an accused person may, at any time, apply to the Magistrate to be discharged from their engagements. On such an application being made, the Magistrate shall issue his warrant, directing that such person be brought before him. On the appearance of such person pursuant to the warrant, or on his voluntary surrender, the Magistrate shall direct the recognizances of the sureties to be discharged, and shall call upon such person to find other sureties, and in default, may order him to be committed to prison.

Proceedings to compel payment of penalty by accused.

219. Whenever by reason of default of appearance of the person executing the personal recognizance, the Magistrate shall be of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance, he shall proceed to enforce the penalty by the attachment and sale of the moveable property belonging to such person, which may be found within the jurisdiction of the Magistrate of the District.

Proceedings to compel payment of penalty by sureties.

220. Whenever by reason of default of appearance by the person bailed, the Magistrate shall be of opinion that proceedings should be had to compel payment of the penalty mentioned in the recognizance of the surety or sureties, he shall give notice to the surety or sureties to pay the same, or to show cause why it should not be paid; and, if no sufficient cause be shown, the Magistrate shall proceed to recover the penalty from such surety or sureties by the attachment and sale of any moveable property belonging to such surety or sureties which may be found within the jurisdiction of the Magistrate of the District, and if the penalty be not paid and cannot be recovered by such attachment and sale, such surety or sureties shall be liable to confinement, by order of the Magistrate, in the Civil jail, during a period not exceeding six months.

In what cases the powers given by the last two Sections may be exercised.

221. The powers given by the last two preceding Sections may be exercised by every Criminal Court in every case in which a personal recognizance or bail has been given for the appearance of a party or witness, if default is made by the non-appearance of such party or witness before such Court according to the conditions of such recognizance or bail.

Warrant of commitment how to be directed, &c

222. Every warrant for the commitment of a person to custody shall be directed to some jailor, or other Officer or person having authority to receive and keep prisoners, and shall be in the Form (C) given in the Appendix, or to the like effect.

With whom to be lodged.

223. The warrant of commitment shall be lodged with the jailor, if he be in the jail; and if he be not in the jail, with his deputy. If the jailor has no deputy, the warrant may be lodged with any Officer of the jail then being in the jail.

When Magistrate may adjourn the enquiry.

224. If from the absence of a witness or from any other reasonable cause, it shall become necessary or advisable to defer the examination, or further examination, of witnesses, it shall be lawful for the Magistrate by a written order, from time to time, to adjourn the enquiry, and to remand the accused person for such time as shall be deemed reasonable, not exceeding fifteen days; provided that, instead of detaining the accused person in custody during the period for which he shall be so remanded, the Magistrate may discharge him, upon his entering into a recognizance, with or without a surety or sureties, at the discretion of such Magistrate, conditioned for his appearance before the Magistrate at the time and place appointed for the continuance of such examination.

When accused person to be discharged.

225. When a Magistrate finds that there are not sufficient grounds for committing the accused person to take his trial before the Court of Session or for remanding him, he shall discharge him, unless it shall appear to the Magistrate that such person should be put on his trial before himself, in which case he shall proceed under Chapter XIV. of this Act.

When defendant to be committed for trial.

226. When evidence has been given before a Magistrate which appears to be sufficient for the conviction of the accused person of an offence which is triable exclusively by the Court of Session, or which, in the opinion of the Magistrate, is one that ought to be tried by the Court of Session, the accused person shall be sent for trial by the Magistrate before the Court of Session. If the Magistrate is a Justice of the Peace and the accused person is a European British subject, he shall be sent for trial before the Supreme Court of Judicature.

Copy of charge to be furnished to accused person.

227. As soon as the charge on which the accused person is to be tried has been prepared as hereinafter directed, it shall be read to him, and a

copy or translation of it shall be furnished to him, if he require it. The accused person shall be required at once to give in orally or in writing, a list of witnesses whom he may wish to be summoned to give evidence on his trial before the Court of Session or Supreme Court. It shall be in the discretion of the Magistrate to allow the accused person to give in any further list of witnesses at a subsequent time. The Magistrate shall receive the list, and summon the witnesses to appear before the Court before which the accused person is to be tried. The provisions of Sections 187, 188, 189, 190, 191, and 192, so far as they relate to the attendance of witnesses, shall be applicable to witnesses named by the accused in the list above mentioned.

Witnesses for the defence on the trial.

228. If the Magistrate shall be of opinion that any witness is included in the list for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material, and if the Magistrate be not so satisfied, he shall not be bound to summon the witness, unless such a sum shall be deposited with the Magistrate as he shall consider necessary to defray the expense of obtaining the attendance of the witness.

Magistrate may refuse to summon unnecessary witness, unless a deposit be made to defray the expenses of such witness.

229. When a commitment is made to the Court of Sessions, the record of the Magistrate shall be forwarded to such Court, together with any weapon or other article of property connected with the case. When a commitment is made to the Supreme Court of Judicature, such record and such weapon or other article shall be forwarded to the Clerk of the Crown, and if any part of such record shall not be in the English language, a translation thereof in the English language shall be forwarded therewith.

Record to be forwarded to the Superior Court.

230. When the preliminary enquiry is concluded, the accused person shall, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions, which shall be made at his expense.

Copies of depositions to be furnished to accused.

231. When the accused person is committed to take his trial before the Court of Session, the Magistrate shall issue an order to the Government Pleader or other Officer appointed by the Government to conduct prosecutions before the Court of Session, notifying such commitment, and stating the offence in the same form as the charge. Nothing in this Section shall preclude the Magistrate, if he shall think fit, from appointing a person other than such Government Pleader or Officer to conduct the prosecution.

When commitment is made, Magistrate to give notice to Government Pleader, &c.

232. Prosecutors and witnesses for the prosecution, whose attendance may be necessary before the Court of Session, shall execute before the Magistrate recognizances in the Form (E) given in the Appendix, or to the like effect, to be in attendance when called upon at the Court of Session, to prosecute or to give evidence as the case may be. If any prosecutor or witness shall refuse to attend before the Court of Session or to execute the recognizance above directed, it shall be competent to the Magistrate to detain such prosecutor or witness in custody, until he shall execute such recognizance, or until the time when his attendance at the Court of Session is required, when the Magistrate shall forward such prosecutor or witness under custody to the Court of Session.

Recognizances of prosecutors and witnesses.

## CHAPTER XIII.

### OF THE CHARGE.

What the charge is to contain.

233. When the Magistrate has determined to send the accused person before the Court of Session for trial, he shall make a written instrument under his hand and seal, declaring with what offence the accused person is charged, and shall direct the accused person to be tried by such Court on such charge. A copy of this instrument shall be forwarded with the record of the preliminary enquiry to the Court of Session before which the accused person is to be tried, and a copy shall also be sent to the Public Prosecutor or to the Officer appointed to conduct the prosecution.

How the offence is to be described.

234. The charge shall describe the imputed offence as nearly as possible in the language of the Indian Penal Code, and shall refer to the Section under which such offence is punishable.

Absence of General Exceptions under the Penal Code to be assumed.

235. It shall not be necessary to allege in the charge any circumstances for the purpose of showing that the case does not come, nor shall it be necessary to allege that the case does not come, within any of the General Exceptions contained in Chapter IV. of the Indian Penal Code, but every charge shall be understood to assume the absence of all such circumstances.

Evidence as to General Exception.

236. It shall not be necessary at the trial, on the part of the prosecutor, to prove the absence of such circumstances in the first instance; but the accused person shall be entitled to give evidence of the existence of any such circumstances, and evidence in disproof thereof may then be given on the part of the prosecutor.

237. When the Section referred to in the charge contains an exception not being one of such General Exceptions, the charge shall not be understood to assume the absence of circumstances constituting such exceptions so contained in the Section, without a distinct denial of the existence of such circumstances.

Special ground of exception from absence of circumstances not to be assumed.

238. The charge may contain one or more heads.

Charge may contain one or more heads.

239. When a charge contains one head only, the form shall be as follows, or to the same effect:

Heads of charge.

(*a*.) I, A [*name and office of Magistrate, &c.*,] declare that there is hereby made against Z the charge.

(*b*.) That he, on or about the day of at , waged war against the Queen, and that he has thereby committed an offence punishable under Section 121, of the Indian Penal Code, (*c*) and within the cognizance of the Court of Session.

On Section 121.

(*d*.) And I hereby direct that Z be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

To be substituted for (*b*),

(2.) That he, on or about the day of at , with the intention of inducing the Honorable A. B., a Member of the Council of the Governor General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 124.

(3.) That he, being a public servant in the Department, directly accepted from [*state the name*] for another party [*state the name*] a gratification, other

On Section 161.

than legal remuneration, as a motive for his, the said Z's, forbearing to do an official act, and that he has thereby committed an offence punishable under Section 161 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 304.

(4.) That he, on or about the day of at , committed culpable homicide not amounting to murder, causing the death of and that he has thereby committed an offence punishable under Section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 306.

(5.) That he, on or about the day of at , abetted the commission of suicide by A. B., a person in a state of intoxication, and that he has thereby committed an offence punishable under Section 306 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 325.

(6.) That he, on or about the day of at , voluntarily caused grievous hurt to and that he has thereby committed an offence punishable under Section 325 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 392.

(7.) That he, on or about the day of at , committed robbery, and that he has thereby committed an offence punishable under Section 392 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Section 395.

(8.) That he, on or about the day of at , committed dacoity, and that he has thereby committed an offence punishable under Section 395 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with one head only, under other Sections of the Indian Penal Code.

Charges in cases falling within two or more Sections of the Penal Code.

240. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within two or more Sections of the Indian Penal Code, the charge shall contain two or more heads, each of which shall be applicable to one of such Sections.

Two or more offences punishable under the same Section.

241. When it appears to the Magistrate that the facts which can be established in evidence show the commission of two or more offences falling within the same Section of the Indian Penal Code, the charge shall contain two or more heads charging such offences respectively.

Cases of doubt as to Section which is applicable, or the offence which may be proved.

242. When it appears to the Magistrate that the facts which can be established in evidence show a case falling within some one of two or more Sections of the Indian Penal Code, but it is doubtful which of such Sections will be applicable, or show the commission of one of two or more offences falling within the same Section of the said Code, but it is doubtful which of such offences will be proved, the charge shall contain two or more heads, framed respectively under each of such Sections, or charging respectively each of such offences accordingly.

Forms of charge of more than one head.

243. When a charge contains more heads than one, the form shall be as follows, or to the same effect :—

I, A [*name and office of Magistrate or other Officer as aforesaid, &c.,*] declare that there is hereby made against Z the charge :

On Sections 241 and 242.

*First* :—That he, on or about the day of at , knowing a coin to be counterfeit, delivered the same to another person, by name A. B., as genuine, and that he has thereby committed an offence punishable under Section 241 of the Indian Penal Code, and within the cognizance of the Court of Session.

*Secondly* :—That he, on or about the day of at , knowing a coin to be counterfeit, attempted to induce another person, by name A. B., to receive it as genuine, and that he has thereby committed an offence punishable under Section 242 of the Indian Penal Code, and within the cognizance of the Court of Session.

And I hereby direct that Z be tried by the said Court on the said charge.

[*Signature and Seal of the Magistrate.*]

On Sections 302 and 304

*First* :—That he, on or about the day of at , committed murder by causing the death of , and that he has thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of the Court of Session.

*Secondly* :—That he, on or about the day of at , by causing the death of , committed culpable homicide, and that he has thereby committed an offence punishable under Section 304 of the Indian Penal Code, and within the cognizance of the Court of Session.

On Sections 379 and 382.

*First* :—That he, on or about the day of at , committed theft, and that he has thereby committed an offence punishable under Section 379 of the Indian Penal Code, and within the cognizance of the Court of Session.

*Secondly* :—That he, on or about the day of at ; committed theft, having made preparation for causing death to a person in order to the committing of such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

*Thirdly* :—That he, on or about the day of at , committed theft, having made preparation for causing restraint to a person in order to the effect-

ing of his escape after the committing of such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

*Fourthly* :—That he, on or about the day of at , committed theft, having made preparation for causing fear of hurt to a person in order to the retaining of property taken by such theft, and that he has thereby committed an offence punishable under Section 382 of the Indian Penal Code, and within the cognizance of the Court of Session.

And the same form shall be followed, as nearly as may be, in charges with more heads than one, under other Sections of the Indian Penal Code.

Amendment of charge.

244. It shall be competent to any Court before which a trial is held, at any stage of the trial, to amend or alter the charge.

When the trial may be immediately proceeded with after amendment.

245. If the amendment or alteration is such that proceeding immediately with the trial is not likely, in the opinion of the Court, to prejudice the accused person in his defence, it shall be at the discretion of the Court, after making the amendment or alteration, to proceed with the trial as if the amended charge had been the original charge.

When a new trial may be ordered, or trial suspended.

246. If the amendment or alteration is such that proceeding immediately with the trial is likely, in the opinion of the Court, to prejudice the accused person in his defence, the Court may either direct a new trial, or suspend the trial for such period as may be necessary to enable the accused person to make his defence to the amended or altered charge; and after hearing his defence, may further adjourn the trial, to admit of the appearance of any witness whose evidence the Court may consider to be material to the case, or whom the accused person may wish to be summoned in his defence.

247. In all cases of amendment or alteration of a charge, the accused person shall be allowed to recall and examine any witness who may have been examined.

Defendant may recall and examine witnesses already examined.

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## CHAPTER XIV.

### OF CASES TRIABLE BY THE MAGISTRATE IN WHICH A WARRANT ON COMPLAINT MAY ISSUE.

248. When a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed, or is suspected to have committed, any offence triable by such Magistrate, and punishable under the Indian Penal Code with imprisonment for a period exceeding six months, it shall be lawful for such Magistrate to issue his warrant to apprehend such person. Provided that in any such case the Magistrate, to whom such complaint shall be made, may for any sufficient reason, instead of issuing his warrant in the first instance, issue his summons, requiring the person complained against to appear to answer to such complaint.

Cases in which Magistrate may issue a warrant.

Summons instead of warrant.

249. The provisions of Chapter XII. relating to the issuing of process for causing the attendance of the accused person, the taking of bail, the summoning and enforcing the attendance of witnesses, the examination of parties and witnesses, the mode of recording evidence, correction, attestation, and interpretation thereof, and the adjournment of a case, shall be applicable to cases tried under this Chapter. On completing the examination of a witness under this Section, the Magis-

Issue of process.

trate, in addition to the memorandum required by Chapter XII., shall record such remarks as he may think material respecting the demeanor of any witness while under examination.

Charge.

250. When the evidence of the complainant and of the witnesses for the prosecution, and such examination of the accused person as the Magistrate shall consider necessary, have been taken, the Magistrate, if he find that no offence has been proved against the accused person, shall discharge him. If the Magistrate find that an offence is apparently proved against the accused person which falls within the definition in a certain Section of the Indian Penal Code, or within one or other of the definitions in several Sections of the said Code, he shall prepare in writing a charge against the accused person in the manner prescribed in Chapter XIII. of this Act, all the provisions of which shall be applicable to charges prepared under this Section. In charges prepared under this Section the words "within my cognizance" shall be substituted for the words "within the cognizance of the Court of Session" at the end of the charge, and the words "by the said Court" omitted in the order.

Plea.

251. The charge shall then be read to the accused person, and he shall be asked whether he is guilty or has any defence to make.

Plea of claim to be tried.

252. If the accused person have any defence to make to the charge, he shall be called upon to enter upon the same, and to produce his witnesses if in attendance, and shall be allowed to recall and cross-examine the witnesses for the prosecution.

Evidence for the defence.

253. The Magistrate shall summon any witness and examine any evidence that may be offered in behalf of the accused person, to answer or disprove the evidence

against him, and may, for this purpose, at his discretion, adjourn the trial from time to time, as may be necessary.

Witnesses for the defence.

251. The provisions of Sections 187, 188, 189, 190, 191, and 192 of this Act shall be applicable to witnesses named in support of the defence.

Acquittal or conviction.

255. If the Magistrate shall find the accused person not guilty, he shall record judgment of acquittal. If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

How the Magistrate is to proceed when, after commencement of trial, he finds the case beyond his jurisdiction.

256. In any trial before a Magistrate, in which it may appear at any stage of the proceedings that from any cause the case is one which the Magistrate is not competent to try, or which, in the opinion of such Magistrate, ought to be tried by the Court of Session, the Magistrate shall stop further proceedings under this Chapter, and shall proceed in accordance with Chapter XII. of this Act for conducting the preliminary enquiry in cases triable by the Court of Session.

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## CHAPTER XV.

### OF CASES TRIABLE BY THE MAGISTRATE IN WHICH A SUMMONS ON COMPLAINT SHALL ORDINARILY ISSUE.

Summons shall issue.

257. Whenever a complaint is made before a Magistrate having jurisdiction in the case, that any person has committed or is suspected to have committed any offence triable by such Magistrate and punishable under the

Indian Penal Code with imprisonment for a period not exceeding six months, it shall be lawful for such Magistrate to issue his summons directed to such person, stating shortly the matter of such complaint, and requiring him to appear at a certain time and place before such Magistrate to answer to the complaint. Provided that, if the Magistrate shall be satisfied or have reason to believe that the accused person is about to abscond, he may, instead of issuing a summons, issue his warrant in the first instance for the arrest of such accused person.

When warrant may issue.

258. If, upon the day appointed, the accused person shall appear voluntarily in obedience to the summons in that behalf served upon him, or shall be brought before the Magistrate by virtue of a warrant, it shall be at the discretion of the Magistrate to admit the accused person to bail, or allow him to be at large upon his personal recognizance, as the Magistrate may direct. If the accused person cannot give bail, when required to do so, he shall be committed to custody.

Defendant may be admitted to bail or to be at large upon personal recognizance.

259. If upon the day appointed for the appearance of the accused person or any day subsequent thereto on which the case may be called on, the complainant does not appear, the Magistrate shall dismiss the complaint; unless for some reason he shall think proper to adjourn the hearing of the same to some other day, upon such terms as he shall think fit.

Non-appearance of complainant.

260. If the person served with a summons shall not appear before the Magistrate at the time mentioned in such summons, and the Magistrate shall be satisfied that such summons was duly served in what shall be deemed by the Magistrate to be a reasonable time before the time therein appointed for appearing to the same, or if it shall appear to the

If summons be not obeyed, warrant.

Magistrate that after due diligence the summons could not be served according to the provisions of this Act, the Magistrate may issue his warrant to apprehend the accused person.

Magistrate may dispense with personal attendance of accused.

261. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of the person complained against, and permit him to appear by an Agent duly authorized to act in his behalf. Provided that it shall be at the discretion of the Magistrate at any stage of the proceedings to direct the personal attendance of such person. When the personal attendance of the accused person during the trial has been dispensed with, the sentence of the Magistrate, if the sentence be for fine only, may be pronounced in the presence of the Agent if the accused person has been permitted to appear by Agent, or the accused person may be required to attend to hear such sentence.

Summons to witness to attend and give evidence.

262. If it appear to the Magistrate that any person is likely to give material evidence on behalf of the complainant or the accused person, and that such person will not voluntarily appear for the purpose of being examined as a witness at the time and place appointed for the hearing of such complaint, the Magistrate shall issue his summons to such person under his signature and seal, requiring him to appear at a time and place mentioned in the summons, to testify what he knows concerning the matter of the complaint.

Magistrate may summon necessary evidence.

263. It shall be at the discretion of the Magistrate at any stage of the trial, to summon and examine any witness whose evidence he may consider essential to the just decision of the case. The Magistrate may also examine as a witness any person in attendance, although not summoned as a witness.

Application of previous rules.

264. The provisions of Sections 187, 188, 189, 190, 191, and 192 of this Act, shall be applicable to witnesses summoned according to the provisions of Sections 262 and 263.

Admission by accused of truth of complaint.

265. On the appearance of both parties on the day fixed for the trial, the substance of the complaint shall be stated to the accused person, and he shall be asked if he has any cause to show why he should not be convicted. If the accused person admit the truth of the complaint, and show no sufficient cause why he should not be convicted, the Magistrate may convict him accordingly.

Proceeding when no such admission is made.

266. If the accused person do not admit the truth of the complaint, the Magistrate shall proceed to hear the complainant and such witnesses as he may produce in support of his complaint, and also to hear the accused person and such witnesses as he shall produce in his defence.

How the evidence is to be recorded.

267. The Magistrate shall make a memorandum of the substance of the evidence of each witness, as the examination of the witness proceeds. The memorandum shall be written and signed by the Magistrate with his own hand and shall form part of the record. If the Magistrate shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record. The Magistrate shall record such remarks as he shall think material respecting the demeanor of any witness whilst under examination.

Manner of recording evidence in certain cases.

268. In any case in which the Magistrate shall consider it necessary, it shall be competent to him, instead of taking down merely the substance of the evidence

of any witness to take down the evidence of the witness in the manner provided in Section 195 or in the manner provided by Section 196 if within the jurisdiction of such Magistrate the local Government shall have made an order as provided in that Section. In any such case the provisions of Sections 199 and 200 shall be applicable to the evidence so taken.

Adjournment.

269. Before or during the hearing of any complaint, it shall be lawful for the Magistrate to adjourn the hearing of the same to a day, to be then appointed and stated in the presence and hearing of the party or parties; and if on the day to which such hearing or such further hearing shall have been so adjourned, the accused person shall not appear, the Magistrate may issue his warrant for the arrest of such person, and if the complainant shall not appear, the Magistrate may dismiss the complaint.

Magistrate may award amends in cases of frivolous and vexatious complaints.

270. In any case where the Magistrate shall dismiss the complaint as frivolous and vexatious, it shall be lawful for him, in his discretion, by his order of dismissal, to award that the complainant shall pay to the accused person such amends, not exceeding fifty Rupees, as to such Magistrate shall seem just and reasonable. The sum so awarded shall be recoverable by distress and sale of the moveable property belonging to the complainant, which may be found within the jurisdiction of the Magistrate of the District, and in default of such distress, by imprisonment, in the Civil jail, for any time not exceeding thirty days, unless such amends shall be sooner paid.

Magistrate may permit withdrawal of the complaint.

271. If a complainant at any time before a final order is passed in any case under this Chapter, shall satisfy the Magistrate that there are sufficient grounds for permitting him to draw his complaint, the Magistrate may permit such complainant to withdraw such complaint. A complaint withdrawn under this Section shall not again be entertained.

Conviction.

272. If the Magistrate, in any case tried under this Chapter, shall find the accused person not guilty he shall record a judgment of acquittal. If the accused person is convicted, the Magistrate shall pass sentence upon him according to law.

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## CHAPTER XVI.

### OF INQUIRIES AND TRIALS BEFORE THE SUBORDINATE MAGISTRATES.

Reference of cases to Subordinate Magistrate.

273. Criminal cases brought before the Magistrate of the District or a Magistrate in charge of a division of a District, either on complaint preferred directly to such Magistrate or on the report of a Police Officer, may be referred by such Magistrate to any Magistrate subordinate to him. The reference shall be for enquiry or for trial if the offence be triable by such Subordinate Magistrate, or with a view to commitment to the Court of Session if such Magistrate is competent to commit to the Court of Session, or with a view to commitment to the Supreme Court of Judicature if such Subordinate Magistrate is competent to commit to such Supreme Court. Provided that nothing in this Section shall prevent any Subordinate Magistrate from entertaining either on complaint preferred directly to such Magistrate or on the report of a Police Officer (in cases in which the Subordinate Magistrate is authorized to receive such report) any case that such Magistrate is, by any law for the time being in force, competent to entertain.

Proviso.

Cases how to be referred.

274. When a criminal case is referred under this Chapter to a Subordinate Magistrate, the order of reference, if the case has been brought forward on the report of a Police Officer, shall be recorded on such report,

and all processes issued for causing the attendance of the accused person or the witnesses, shall direct them to attend before such Court.

Subordinate Magistrates to follow the same rules of procedure as the Magistrate.

275. In the enquiry into or trial of cases under this Chapter, the Subordinate Magistrates shall be guided by the rules prescribed for the guidance of the Magistrate of the District in similar cases; and Police Officers and others shall be bound to obey all orders and processes issued in such cases in like manner as if such orders or processes had been issued by the Magistrate of the District.

How the Subordinate Magistrate is to proceed in cases beyond his jurisdiction.

276. If, in the course of a trial before a Subordinate Magistrate, the evidence shall appear to him to warrant a presumption that the accused person has been guilty of an offence which such Magistrate is not competent to try, or for which he is not competent to commit the accused person for trial before the Court of Session, he shall stay proceedings and shall submit the case to the Magistrate to whom he is subordinate. The Magistrate to whom the case is submitted shall either try the case himself or refer it to any Officer subordinate to him having jurisdiction, or he may commit the accused person for trial before the Court of Session. In any such case, such Magistrate or other Officer as aforesaid shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

In what cases Subordinate Magistrate shall not pass sentence, but may refer case to the Magistrate.

277. If, in any case tried by a Subordinate Magistrate having jurisdiction in which the accused person is found guilty, such Magistrate shall consider the offence established against the accused person to call for a more severe punishment than he is competent to adjudge, he shall record the finding and submit his proceedings to the Magistrate to whom he is subordinate, and such Magistrate shall pass such sentence or order in the case as he may deem

proper and as shall be according to law. In any such case the Magistrate to whom the proceedings are submitted, may examine the parties, and recall and examine any witness who shall already have given evidence in the case, and he may call for or take any further evidence.

How the Magistrate is to proceed in such cases.

278. Nothing in the last preceding Section shall be held to prevent the Subordinate Magistrate in any such case as is therein described, if such Magistrate is empowered to hold the preliminary enquiry into cases triable by the Court of Session and to commit persons to take their trial before such Court, from committing the accused person for trial before the Court of Session instead of finding him guilty. If the Subordinate Magistrate shall be of opinion that the accused person should be committed for trial before the Court of Session, he shall proceed in accordance with Chapter XII. of this Act, for conducting the preliminary enquiry in cases triable by the Court of Session.

Subordinate Magistrate, if empowered to do so, may, instead of convicting the accused, commit him for trial before the Court of Session.

Mode of procedure in such cases.

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## CHAPTER XVII.

### PLACE WHERE PRELIMINARY INVESTIGATIONS AND TRIALS HELD, AN OPEN COURT.

279. The place in which the Court of a Magistrate is held for the trial of any complaint or for the purpose of conducting any preliminary investigation into any case triable by a Court of Session or Supreme Court of Judicature, or any Superior Court, shall be deemed an open and public Court, to which the public generally may have access, so far as the same can conveniently contain them; but it shall be lawful for any such Court, if it shall think fit, to order

Place where investigation made, an open Court.

that during the investigation into any particular case triable by a Court of Session or by a Supreme Court of Judicature, no person shall have access to or be or remain in such room or building without the consent or permission of the Court.

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## CHAPTER XVIII.

### Of Recognizance and Security to keep the Peace.

Personal recognizance to keep the peace in cases of conviction.

280. Whenever a person charged with rioting, assault, or other breach of the peace, or with abetting the same, or with assembling armed men or taking other unlawful measures with the evident intention of committing the same, shall be convicted of such charge before any Court of Session or the Magistrate of the District or other Officer exercising the powers of a Magistrate, and the Court or Magistrate or other Officer as aforesaid by which the accused person is convicted, or the Court or Magistrate or other Officer as aforesaid by which the final sentence or order in the case shall be passed, shall be of opinion that it is just and necessary to require a penal recognizance for keeping the peace, from the person so convicted, it shall be lawful to such Court or Magistrate or other Officer as aforesaid so convicting the accused person, or so passing the final sentence or order as aforesaid, in addition, to direct that the person so convicted be required to execute a formal engagement, in a sum proportionate to his condition in life and the circumstances of the case, for keeping the peace during such period as it may appear proper to fix in each instance, not exceeding one year if the sentence or order be passed by the Magistrate of the District or other Officer exercising the powers of a Magistrate, or three years if the sentence or final order be passed by a Court

of Session. When any accused person shall be convicted of any offence specified in this Section by an Officer not exercising the powers of a Magistrate, such Officer, if he consider it just and necessary to require a penal recognizance for keeping the peace from the person so convicted, shall report the case to the Magistrate of the District or other Officer exercising the powers of a Magistrate to whom such Officer may be subordinate, who shall deal with the case as if the conviction had been before himself.

Security to keep the peace.

281. In cases in which it may appear necessary to require security for keeping the peace, in addition to the personal recognizance of the party so convicted, it shall also be lawful to the Court or Magistrate or other Officer as aforesaid, empowered to require a penal recognizance under the last preceding Section, to require security in addition thereto and to fix the amount of the security-bond to be executed by the surety or sureties; with a provision that, if the same be not given, the party required to find the security shall be kept in custody for any time not exceeding one year if the order be passed by the Magistrate of the District or other Officer exercising the powers of a Magistrate, or three years if the order be passed by the Sudder Court or by a Court of Session.

Summons to any person to show cause why he should not enter into a bond to keep the peace.

282. It shall be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, whenever he shall receive credible information that any person, whether a European British subject or not, is likely to commit a breach of the peace, or to do any act that may probably occasion a breach of the peace, to summon such person to attend at a time and place mentioned in the summons, to show cause why he should not be required to enter into a bond to keep the peace with or without sureties as such Magistrate shall think fit.

283. The summons shall set forth the substance of the information, the amount of the bond and the term for which it is to be in force, and if security is called for, the number of sureties required, and the amount in which they are to be bound respectively. Such summons shall be served in the manner provided by this Act for the service of a summons on an accused person.

Form of Summons.

284. The penalty of such bond, which shall be in the Form (D) given in the Appendix or to the like effect, shall be fixed with a due regard to the circumstances of the case and the means of the party, and the amount in which the sureties shall be bound shall not exceed the said penalty.

Penalty.

285. If the person summoned shall not attend on the day appointed, the Magistrate or other Officer as aforesaid, if satisfied that the summons has been duly served, may issue a warrant for his arrest. Provided that, whenever it shall appear to the Magistrate or other Officer as aforesaid, upon the report of a Police Officer or upon other credible information, the substance of which report or information shall be recorded, that there is just reason to fear the commission of a breach of the peace, which may probably be prevented by the immediate arrest of any person, it shall be lawful for the Magistrate at any time to issue a warrant for the arrest of such person.

Warrant of arrest.

286. The Magistrate or other Officer as aforesaid may, if he see sufficient cause, dispense with the personal attendance of the person informed against and permit him to appear and enter into the required security, or show cause against such requisition by an Agent duly authorized to act in his behalf.

Magistrate may dispense with personal attendance of party informed against.

287. If on the appearance of the person, or of his Agent if he is permitted to appear by Agent, the Magistrate or other Officer as aforesaid shall not be satisfied that

Discharge of party informed against.

there is occasion to bind such person to keep the peace, he shall direct his discharge.

Consequence of not complying with order of Magistrate to enter into a bond.

288. If the Magistrate or other Officer as aforesaid shall be satisfied that it is necessary for the preservation of the peace to take a bond from such person with or without security, he shall make an order accordingly; and if the person shall fail to comply with the order, it shall be lawful for the Magistrate or other Officer as aforesaid to commit him to jail.

Limit for confinement.

289. The period for which the Magistrate or other Officer as aforesaid may bind a person to keep the peace with or without security, shall not exceed one year. When a person shall be committed to jail under the last preceding Section, he shall not be detained by authority of the Magistrate or other Officer as aforesaid beyond the term of one year, and shall be released whenever he shall comply with the order within that term.

Extension of period of confinement.

290. Whenever it shall appear to the Magistrate or other Officer as aforesaid that it is necessary for the preservation of the peace to bind a person beyond the term of one year, he may, before the expiration of the first year, record his opinion to that effect and the grounds thereof, and may refer the case for the orders of the Court of Sessions, and such Court, after examining the proceedings of the Magistrate or other Officer as aforesaid and making such further enquiry as such Court may think necessary, may, if it shall see cause, authorize the Magistrate or other Officer as aforesaid to extend the term for a further period not exceeding one year, and if the party shall fail to give a bond, with security if required, for his keeping the peace for such further period as the Magistrate or other Officer as aforesaid shall direct under the orders of the Court of Session, he may be kept in confinement for such further period or until he shall give such bond within that period.

Discharge of recognizances.

291. The Magistrate or other Officer as aforesaid may, if he shall see sufficient cause, discharge any recognizance and surety for keeping the peace taken under the preceding Sections, and may order the release of the person confined for default in entering into such recognizance or giving such security.

Discharge of sureties.

292. A surety for the personal appearance of another person may at any time apply to the Magistrate or other Officer as aforesaid to be relieved from his engagement as surety. On such application being made, the Magistrate shall issue his summons or warrant in order that the person for whom such surety is bound, may appear or be brought before him. On the appearance of the person to such warrant or on his voluntary surrender, the Magistrate or other Officer as aforesaid shall direct the engagement of the surety to be cancelled and shall call upon such person to give fresh security, and in default thereof shall commit him to custody.

Enforcement of penalty against the principal party

293. Whenever it may be proved before the Magistrate or other Officer as aforesaid that any recognizance or other bond taken under this Chapter has been forfeited, he shall record the grounds of such proof and shall call upon the person bound by the bond to pay the penalty thereof or to show cause why it should not be paid; and if sufficient cause be not shown and the penalty be not paid, the Magistrate or other Officer as aforesaid shall proceed to recover the same by the attachment and sale of any of the moveable property belonging to the person bound thereby which shall be found within the jurisdiction of the Magistrate of the District, and if the penalty be not paid and cannot be recovered by such attachment and sale, the party shall be liable to imprisonment by order of the Magistrate or other Officer as aforesaid in the Civil jail, for a period not exceeding six months.

Recovery of penalty from surety.

294. Whenever it may be proved before the Magistrate or other Officer as aforesaid that any bond with a surety has been forfeited, the Magistrate or other Officer as aforesaid may at his discretion give notice to the surety to pay the penalty to which he has thereby become liable, or to show cause why it should not be paid; and if no sufficient cause be shown, and the penalty be not paid, the Magistrate or other Officer as aforesaid may proceed to recover payment of the penalty from such surety in the same manner as from the principal party.

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## CHAPTER XIX.

### SECURITY FOR GOOD BEHAVIOUR.

When Magistrate may require security for good behaviour for six months.

295. Whenever it shall appear to the Magistrate of the District or to an Officer exercising the powers of a Magistrate that any person is lurking within his jurisdiction not having any ostensible means of subsistence, or who cannot give a satisfactory account of himself, it shall be competent to such Magistrate or other Officer as aforesaid to require security for the good behaviour of such person for a period not exceeding six months.

When Magistrate may require security for good behaviour for one year.

296. Whenever it shall appear to such Magistrate or other Officer as aforesaid from the evidence as to general character adduced before him, that any person is by repute a robber, house-breaker, or thief, or a receiver of stolen property knowing the same to have been stolen, or of notoriously bad livelihood, it shall be competent to such Magistrate or other Officer as aforesaid to require security for the good behaviour of such person for a period not exceeding one year.

How to proceed in cases beyond one year.

297. Whenever it shall appear to such Magistrate or other Officer as aforesaid from the evidence as to general character adduced before him, that any person is by habit a robber, house-breaker, or thief, or a receiver of stolen property knowing the same to have been stolen, or of a character so desperate and dangerous as to render his release, without security, at the expiration of the limited period of one year, hazardous to the community, the Magistrate or other Officer as aforesaid shall record his opinion to that effect, with an order specifying the amount of security which should, in his judgment, be required from such person, as well as the number of sureties, and the period, not exceeding three years, for which the sureties should be responsible for such person's good behaviour.

Case to be laid before the Court of Session.

298. If the person required to furnish security as provided in the last preceding Section, shall not furnish the security so required, the proceedings shall be laid, as soon as conveniently may be, before the Court of Session, which, after examining them and requiring any further information or evidence which it may judge necessary, shall be competent to pass orders on the case, either confirming, modifying, or annulling the orders of the Magistrate or other Officer as aforesaid as it may judge proper.

Court of Session may require security not exceeding three years.

299. If the Court of Session shall not think it safe to direct the immediate discharge of such person, it shall fix a limited period for his detention, not exceeding three years, in the event of his not giving the security required from him.

What the order for security is to contain.

300. In every instance in which security for good behaviour shall be required by the Court of Session or the Magistrate or other Officer as aforesaid, the amount of the security, the number of sureties, and the period of time for which the sureties

are to be responsible for the good conduct of the person required to furnish security shall be stated in the order. The security-bond shall be in the Form (F) given in the Appendix, or to the like effect.

In default of security, party to be committed to prison.

301. In the event of any person required to give security under the provisions of the foregoing Sections, failing to furnish the security so required, he shall be committed to prison until he furnish the same. Provided that no party shall be kept in prison for a longer period than that for which the security has been required from him.

Proviso.

When Magistrate may release persons under requisition of security.

302. The Magistrate of the District or other Officer exercising the powers of a Magistrate is empowered at any time, to exercise his discretion in releasing, without reference to any other authority, any prisoner confined under requisition of security for good behaviour, whether by his own order or by the order of any Officer subordinate to him, provided he shall be of opinion that such person can be released without hazard to the community.

When he must report.

303. In any case in which a Magistrate or other Officer as aforesaid shall be of opinion that any person confined under requisition of security for good behaviour by order of a Court of Session, can be safely released without such security, the Magistrate or other Officer as aforesaid shall make an immediate report of the case for the orders of the Court which shall have required the person to furnish the security.

Discharge of surety.

304. A surety for the good behaviour of a person may at any time apply to the Magistrate or other Officer as aforesaid to be relieved from his engagement as surety. On such application being made, the Magistrate or other Officer as aforesaid shall issue his summons or warrant in order that the person may appear or be brought before him. On the appearance

of the party pursuant to the warrant or on his voluntary surrender, the Magistrate or other Officer as aforesaid shall direct the engagement of the surety to be cancelled, and shall call upon the person to give fresh security, and in default thereof shall commit him to custody.

Proceeding to compel payment of penalty by sureties.

305. Whenever the Magistrate or other Officer as aforesaid shall be of opinion that, by reason of an offence proved to have been committed by the person for whose good behaviour security has been given, subsequent to his having given such security, proceedings should be had upon the bond executed by the surety, he shall give notice to the surety to pay the penalty, or to show cause why it should not be paid; and if no sufficient cause be shown, the Magistrate or other Officer as aforesaid shall proceed to recover the penalty from such surety by the attachment and sale of any moveable property belonging to such surety which may be found within the jurisdiction of the Magistrate of the District; and if the penalty be not paid, and cannot be recovered by such attachment and sale, such surety shall be liable to imprisonment by order of the Magistrate or other Officer as aforesaid in the Civil jail for a period not exceeding six months.

Issue of summons and warrant of arrest.

306. The several provisions of the last preceding Chapter relating to the issue of summons and warrant of arrest for securing the personal attendance of the party informed against, shall apply to proceedings taken under this Chapter against persons required to give security for their good behaviour.

Manner of taking evidence under Chapter XVIII. or this Chapter.

307. Any evidence taken under Chapter XVIII. or this Chapter, shall be taken in the manner prescribed by Section 267, subject to the provision contained in Section 268 of this Act.

## CHAPTER XX.

### OF 'LOCAL NUISANCES.

Magistrate may order removal of nuisances.

308. Whenever the Magistrate of a District or of a division of a District may consider that any unlawful obstruction or nuisance should be removed from any thoroughfare or public place, or that any trade or occupation, by reason of its being injurious to the health or comfort of the community, should be suppressed or should be removed to a different place, or that the construction of any building or the disposal of any combustible substance, as likely to occasion conflagration, should be prevented, or that any building is in such a state of weakness that it is likely to fall, and thereby cause injury to persons passing by, and that its removal in consequence is necessary, or that any tank or well adjacent to any public thoroughfare should be fenced in such a manner as to prevent danger arising to the public, he may issue an order to the person causing such obstruction or nuisance or carrying on such trade or occupation, or being the owner or in possession of, or having control over, such building, substance, tank, or well as aforesaid, calling on such person, within a time to be fixed in the order, to remove such obstruction or nuisance, or to suppress or remove such trade or occupation, or to stop the construction of, or to remove such building, or to alter the disposal of such substance, or to fence such tank or well, (as the case may be,) or to appear before such Magistrate within the time mentioned in the order, and show cause why such order should not be enforced.

Service or notification of order.

309. Such order shall, if practicable, be served personally on the person to whom it is issued; but if personal service is found to be impracticable, the order shall be notified by proclamation, and a written notice

thereof shall be stuck up at such place or places as may be best adapted for conveying the information to such person.

Person ordered shall obey the order, or may claim a Jury.

310. The person to whom such order is issued, shall be bound, within the time specified in the order, to obey the same or to appear before the Magistrate to show cause as aforesaid, or he may apply to the Magistrate by petition for an order for a Jury to be appointed to try whether the order is reasonable and proper. On receiving such petition, the Magistrate shall forthwith appoint a Jury which shall consist of not less than five persons, whereof the President and one-half of the Members shall be nominated by such Magistrate, and the remaining Members by the party petitioning. The Magistrate shall suspend the execution of the order pending such enquiry, and be guided by the decision of the Jury, which shall be according to the opinion of the majority. If the petitioner shall, by neglect or in any other way, prevent the appointment of a Jury, or if from any cause the Jury so appointed shall not decide and report within a reasonable time to be fixed in the order for the appointment, their functions shall cease from the date of the expiration of such period, unless they be continued by special order of the Magistrate; and if from any of the above causes no decision be made by the Jury, the order of the Magistrate shall be carried into effect as hereinafter provided.

Constitution of Jury.

Proceeding in case of neglect by Jury.

Procedure in case of disobedience or neglect by party ordered.

311. If the person to whom the order mentioned in Section 308 is issued shall not obey such order, or show cause against the same as hereinafter provided, or petition for a Jury within the time specified in such order, he shall be liable to the penalty prescribed in that behalf in Section 188 of the Indian Penal Code, and the Magistrate who

issued such order may proceed to carry such order into execution at the expense of such person, and may realize such expenses either by the sale of any building, goods, or other property removed by his order, or by the distress and sale of the personal property of the person aforesaid, and no suit or action shall be entertained in any Court in respect of any thing necessarily or reasonably done to give effect to such order.

If Jury find order Magistrate to be reasonable and proper.

312. If in a case referred to a Jury, the Jury shall find that the order of the Magistrate is reasonable and proper, the Magistrate shall give notice thereof to the person to whom the order was issued, and shall add to such notice an order to obey the order first mentioned within a time to be fixed therein under the penalty provided by the Indian Penal Code as aforesaid. If such latter order shall not be obeyed, the Magistrate may proceed as in the last preceding Section.

If party ordered satisfy the Magistrate that the order is not reasonable and proper.

313. If the person to whom the order of the Magistrate is issued, shall appear and show cause against the same, and shall satisfy the Magistrate that the order is not reasonable and proper, no further proceedings shall be taken in the case.

Issue and enforcement of injunction.

314. If, pending the enquiry by a Jury, the Magistrate shall consider that immediate measures are necessary to be taken to prevent imminent danger or injury of a serious kind to the public, it shall be lawful for such Magistrate to issue such an injunction and order to the person mentioned in that behalf in Section 308, as shall be required to obviate or prevent such danger or injury, and in default of such person forthwith taking all necessary measures ordered to be taken by such injunction or order, the Magistrate may himself use or cause to be used such means as may be necessary to obviate such danger or

to prevent such injury, and no suit or action shall be entertained in respect of any thing necessarily or reasonably done for that purpose.

Saving of certain provisions.

315. Nothing in this Chapter shall interfere with the provisions of Section 48 of Act XXIV. of 1859 *(for the better regulation of the Police within the territories subject to the Presidency of Fort St. George)* or of Section 34 of Act V. of 1861 *(for the regulation of Police.)*

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## CHAPTER XXI.

### OF THE MAINTENANCE OF WIVES AND CHILDREN.

Magistrate may make order for maintenance of wives and children.

316. If any person having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall be lawful for the Magistrate of the District or other Officer exercising the powers of a Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child at such monthly rate, not exceeding fifty Rupees in the whole, as to the Magistrate or other Officer as aforesaid shall seem reasonable; and if such person shall wilfully neglect to comply with the order, the Magistrate or other Officer as aforesaid may, for every breach of the order, by warrant, direct the amount due to be levied in the manner provided for levying fines; or may order such person to be imprisoned with or without hard labor for any term not exceeding one month.

Enforcement of order.

Proviso.

Provided that if such person offer to maintain his wife on condition of her living with him, and his wife shall refuse to live with him, it shall be lawful for the Magistrate or other Officer as aforesaid to consider

any grounds of refusal stated by such wife; and he may make the order allowed by this Section notwithstanding such offer, if he shall be satisfied that such person is living in adultery, or that he has habitually treated his wife with cruelty. No wife shall be entitled to receive an allowance from her husband under this Section, if she is living in adultery, or if without any sufficient reason she refuses to live with her husband.

Application for reduction of allowance.

317. Any person ordered to pay a monthly allowance for the maintenance of his wife, or child, or both, under the provisions of the last preceding Section, may apply to the Magistrate from time to time for the reduction of such allowance and on proof of an alteration in the circumstances of such person, his wife, or child, justifying such reduction, such Magistrate may make such reduction in the allowance ordered as he may deem fit.

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## CHAPTER XXII.

### Of Disputes relating to the Possession of Land or the Right of Use of any Land or Water.

Magistrate how to proceed if any dispute concerning land, &c., is likely to cause breach of the peace.

318. Whenever the Magistrate of the District or other Officer exercising the powers of a Magistrate shall be satisfied that a dispute, likely to induce a breach of the peace, exists concerning any land, premises, water, fisheries, crops, or other produce of land, within the limits of his jurisdiction, he shall record a proceeding stating the grounds of his being so satisfied, and shall call on all parties concerned in such dispute to attend his Court in person, or by agent, within a time to be fixed by the Magistrate or other Officer as aforesaid, and to give in a written statement of their respective claims, as respects the fact of actual possession of the

subject of dispute. The Magistrate or other Officer as aforesaid shall, without reference to the merits of the claims of any party to a right of possession, proceed to inquire which party is in possession of the subject of dispute, and after satisfying himself upon that point, shall record a proceeding declaring the party whom he may decide to be in such possession to be entitled to retain possession until ousted by due course of law, and forbidding all disturbance of possession until such time.

Party in possession to be continued until ousted by due course of law.

319. If the Magistrate or other Officer as aforesaid shall decide that neither of the parties is in possession, or shall be unable to satisfy himself as to which person is in possession of the subject of dispute, he may attach the subject of dispute until a competent Civil Court shall have determined the rights of the parties or who ought to be in possession.

If previous possession cannot be ascertained, Magistrate may attach subject of dispute.

320. If a dispute arise concerning the right of use of any land or water, the Magistrate or other Officer as aforesaid within whose jurisdiction the subject of dispute lies, may enquire into the matter, and if it shall appear to him that the subject of dispute is open to the use of the public, or of any person, or of any class of persons, the Magistrate or other Officer may order that possession thereof shall not be taken or retained by any party to the exclusion of the public, or of such person, or of such class of persons, as the case may be, until the party claiming such possession shall obtain the decision of a competent Court adjudging him to be entitled to such exclusive possession. Provided that the Magistrate or other Officer as aforesaid shall not pass any such order if the matter be such that the right of use is capable of being exercised at all times of the year, unless that right shall have been ordinarily exercised within three months from the date of the institution of the

Disputes concerning right of use of land or water.

enquiry, or in cases where the right of use exists at particular seasons unless such right has been exercised during the last of such seasons before the complaint.

Saving of powers of Collectors and Revenue Courts.

321. Nothing in this Chapter shall affect the powers of a Collector or a person exercising the powers of a Collector, or of a Revenue Court.

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## CHAPTER XXIII.

### OF JURIES AND ASSESSORS.

Local Government by order to specify in what places trials to be by Jury.

322. The local Government may order that the trial of all offences or of any particular class of offences by any Court of Session shall be by Jury in any District, and such local Government may from time to time revoke or alter such order. Orders passed under this Section shall be published in the Government Gazette and in such other manner as the local Government shall direct.

How the Jury is to be constituted for the trial of persons belonging to certain specified races.

323. Criminal trials before the Court of Session in which a European (not being a British subject) or an American is the accused person or one of the accused persons shall be by Jury; and in such case the Jury, if such European or American desire it, shall consist of at least one-half of Europeans (whether British subjects or not) or Americans, if such a Jury can be procured. Provided that in any District in which the local Government shall not have ordered that all trials or trials for all offences of the class within which the trial about to take place falls, shall be by Jury, such European or American may elect to be tried without Jury.

Proviso.

Trials before the Session Court with Assessors.

324. In a trial before the Court of Session not by Jury, the trial shall be conducted with the aid of two or more Assessors as Members of the Court. The opinion of each Assessor shall be given orally and shall be recorded in writing by the Court, but the decision is vested exclusively in the Judge.

How the Jury is to be constituted for the trial of other persons.

325. In a trial by Jury before the Court of Session in which a person not belonging to the races specified in Section 323 shall be tried, at least one-half of the Jury, if the accused person desire it, shall consist of persons not belonging to either of such races.

How the Jury is to be constituted when persons of both descriptions are jointly charged.

326. In any case before the Court of Session in which a person not belonging to the races mentioned in Section 323 is charged jointly with a person belonging to one of those races, and such last mentioned person claims to be tried by a Jury consisting of at least one-half of Europeans or Americans, the person not belonging to either of such races shall, if he desire it, be tried separately.

Number of which the Jury is to consist.

327. In trials by Jury before the Court of Session the Jury shall consist of five persons, or of such number, being an uneven number and not being less than five or more than nine, as the local Government by any general order applicable to any particular District or to any particular classes of offences in that District shall direct.

Number of voices necessary to a verdict.

328. If the Jury are unanimous in a verdict of guilty, the accused person shall be convicted. If the Jury shall consist of five persons and a majority of four find the accused person guilty, or if the Jury shall consist of seven persons and a majority of five find the accused person guilty, or if the Jury shall consist of nine persons and a majority of six find the accused per-

son guilty, the accused person shall be convicted. If the Jury are unanimous in a verdict of not guilty the accused shall be acquitted. If the Jury shall consist of five persons and a majority of four find the accused person not guilty, or if the Jury shall consist of seven persons and a majority of five find the accused person not guilty, or if the Jury shall consist of nine persons and a majority of six find the accused person not guilty, the accused person shall be acquitted, and the Judge shall not receive a verdict of acquittal unless it be unanimous or found by such majority as last aforesaid.

List of Jurors and Assessors.

329. The Collector of the District or other Officer exercising the powers of a Collector of a District shall from time to time prepare and make out in alphabetical order, a list of persons residing within ten miles from the place where trials before the Court of Session are held, or within such other distance as the local Government may think fit to direct, who are in the judgment of the Collector or other Officer as aforesaid qualified from their education and character to serve as Jurors or as Assessors respectively. The list shall contain the name, place of abode, and quality or business of every such person; and if the person belongs to either of the races specified in Section 323 the list shall mention the race to which he belongs.

Publication of list.

330. Copies of such list shall be stuck up in the Office of the Collector or other Officer as aforesaid and in the Court-houses of the Magistrate of the District and of the Chief Civil Court, and in some conspicuous place in the town or towns near or in the vicinity of which the persons named in the list reside, and every such copy shall have subjoined to it a notice, stating that objections to the list will be heard and determined by the Collector or other Officer as aforesaid at a time and place to be mentioned in the notice.

Revision of list.

331. The Collector or other Officer as aforesaid shall, at the time and place mentioned in the notice, revise the list and hear the objections (if any) of persons interested in the amendment thereof, and shall strike out the name of any person not qualified in his judgment to serve as a Juror or as an Assessor, and insert the name of any person omitted therefrom, whom he deems qualified for such service. A copy of the revised list shall be signed by the Collector or other Officer as aforesaid and transmitted to the Court of Session. Any order of the Collector or other Officer as aforesaid in preparing and revising the list shall be final.

Further revision of list.

332. The list so prepared and revised shall be again revised at least once in every year, and the list so revised shall be deemed a new list and shall be subject to all the rules hereinbefore contained as to the list originally prepared.

Jurors.

333. Except as hereinafter provided all male persons between the ages of twenty-one and sixty, resident within the limits of the jurisdiction of the Court of Session, shall be deemed capable of serving as Jurors and Assessors, and shall be liable to be summoned accordingly.

Disqualifications.

334. The following persons are incapable of serving as Jurors or as Assessors in trials before the Court of Session, namely :—

Persons who hold any Office in or under the said Court.

Persons executing any duties of Police or entrusted with any Police functions.

Persons who have been convicted of any offence against the State, or of any fraudulent or other offence which, in the judgment of the Collector, renders them unfit to serve on the Jury.

Persons who are afflicted with any infirmity of body or mind, sufficient to incapacitate them from serving.

Persons who, by habit or religious vows, have relinquished all care of worldly affairs.

Exemptions.

335. The following persons are exempt from the liability to serve as Jurors or as Assessors, namely;—

Judges and other Judicial Officers.

Commissioners and Collectors of Revenue or Customs.

All persons engaged in the Preventive Service in the Customs Department.

All persons engaged in the collection of the Revenue whom the Collector may think fit to exempt on the ground of official duty.

Chaplains and others employed in religious offices.

All persons in the Military Service.

Surgeons and others who openly and constantly practice in the profession of physic.

Persons employed in the Post Office and Electric Telegraph Departments.

Persons actually officiating as Priests in their respective religions.

Persons exempted by Government from personal appearance in Court under the provisions of Section 22 of Act VIII. of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.)*

Person exempted is not bound to avail himself of his right of exemption.

The exemption from service given by this Section is a right of which each person exempted may avail himself or not. Nothing herein contained shall be construed to disqualify any such person if he shall be willing to serve as a Juror or as an Assessor.

Court to summon Jurors.

336. The Court of Session shall ordinarily three days at the least before the time fixed for the holding of Sessions, cause the Magistrate to summon as many persons named in the said revised list as seem to the Court to be needed for trials by Jury and trials with the aid of Assessors at the said Sessions, the number to

be summoned not being less than double the number required for any case about to be tried at such Sessions. The names of the persons to be summoned shall be drawn by lot in open Court, excluding those on the revised list who have served within six months, unless the number cannot be made up without them, and shall be specified in the precept to the Magistrate.

Form and service of summons.

337. Every summons to a Juror or Assessor shall be in writing, and shall require his attendance as a Juror or Assessor at a time and place to be therein specified. The summons or a copy thereof shall be served on every Juror or Assessor personally. If the Juror or Assessor summoned be absent from his usual place of abode, the summons may be left for him there with some adult male member of his family residing with him.

Power of Court to summon another set of Jurors or Assessors.

338. The Court of Session may direct Jurors or Assessors to be summoned at other periods than the period specified in Section 336, when the number of trials before the Court renders the attendance of one set of Jurors or Assessors for a whole Session oppressive or whenever it may be found to be necessary.

Service of summons to serve as Juror or Assessor, on an Officer of Government.

339. If any person summoned to serve as a Juror or Assessor be an Officer of Government, the summons shall be transmitted to such person through the Head Officer of the Office in which he is employed, and the Court may excuse the attendance of such person if it shall appear on the representation of such Head Officer that such person cannot serve as a Juror or Assessor without inconvenience to the public service.

Court may excuse attendance of a Juror or Assessor

340. The Court of Session may excuse any Juror or Assessor from attendance for reasonable cause.

Minute of names of Jurors or Assessors attending at each Session.

341. At each Session the Court shall cause to be made a list of the names of those who serve as Jurors or Assessors at such Sessions. The list shall be kept with the revised list of the Jurors and Assessors prepared under Section 331. A reference shall be made in the margin of the said revised list to each of the names which are mentioned in the list prepared under this Section.

Jurors to be chosen by lot.

342. Whenever a trial by Jury is to be held, the persons who are to constitute the Jury shall be chosen by lot immediately before the commencement of the trial from the Jurors who attend in obedience to the summons. If the trial is to be held with the aid of Assessors, the Judge shall select from the persons summoned to act as Assessors, two or more persons to assist him in such trial.

Assessors to be selected by Judge.

Names of Jurors to be called.

343. Before the commencement of a trial by Jury the names of the Jurors shall be called aloud, and upon the appearance of each Juror, the accused person shall be asked if he objects to be tried by such Juror. Any objection may then be made to such Juror by the accused person or by the Government Pleader or other person appointed to conduct the prosecution and the grounds of objection shall be stated. Any objection made to a Juror shall be decided by the Court, and the decision of the Court shall be final. If an objection be allowed, the place of such Juror shall be supplied by any other Juror in attendance in obedience to a summons, or if there be no such Juror present, then by any other person present in the Court whose name is on the list of Jurors, or whom the Court shall consider a proper person to serve on the Jury, provided no objection to such Juror or other person be made and allowed.

Objections.

Grounds of objection.

344. Any objection taken to a Juror on any of the following grounds, if made out to the satisfaction of the Court, shall be allowed:—

(1.) Any ground of disqualification within Sec. 331.

(2.) Standing in the relation of husband, master or servant, landlord or tenant, to the person alleged to be injured or attempted to be injured by the offence charged, or to the person on whose complaint the prosecution was instituted or to the person accused; being in the employment on wages of either of such persons; being plaintiff or defendant against either of such persons in any Civil suit, or having complained against or having been accused by either of such persons in any Criminal prosecution.

(3.) Any circumstance which in the judgment of the Court is likely to cause prejudice against, or favor to, either of such persons.

Juror to understand the language in which evidence is given or interpreted.

345. The Judge shall not allow any person to serve on the Jury, unless such person understands the language in which the evidence is given or interpreted.

Foreman of Jury.

346. The Jury shall appoint one of their number to be Foreman. It shall be the duty of such Foreman to preside in the debates of the Jury, to deliver the verdict of the Jury or ask any information from the Court that may be required by the Jury. If a majority do not agree in the appointment of a Foreman, he shall be named by the Court.

The same Jury or Assessors may try in succession several offenders.

347. The same Jury, if not objected to, may try, or the same Assessors may aid in the trial of, as many accused persons successively as to the Court shall seem expedient.

View by Jury or Assessors.

348. Whenever in the opinion of the Court it may be proper and convenient that the Jury or Assessors should have a view of the place in which the of-

fence charged is said to have been committed, or of any other place in which any other transaction material to the enquiry in the trial took place, an order shall be made to that effect, and the Jury or Assessors shall be conducted in a body under the care of an Officer of the Court to the place which shall be shown to them by a person appointed by the Court, and it shall be the duty of the Officer not to suffer any other person to speak to or hold any communication with any of the Jury or Assessors, and they shall, when the view is finished, be immediately conducted back into Court.

Mode of summoning and empanelling Jurors for a Jury constituted under Section 323.

349. When a trial is held in which the accused person or one of the accused persons is entitled to be tried by a Jury constituted under the provisions of Section 323 of this Act, the Court of Session shall, three days at the least before the day fixed for holding such trial, cause to be summoned in the manner prescribed in Section 336 such a number of Jurors of the races mentioned in Section 323 as is equal to the total number of Jurymen required for the trial, if so many of such races be on the Jury list of the District. The Court shall also at the same time in like manner cause to be summoned the same number of other persons named in the revised list, unless such number of such other persons shall have been summoned for Jury trials at that Session. The names of the persons to be summoned shall be drawn by lot, excluding those who have served within six months, unless the number cannot be made up without them. From the whole number of persons returned, the Jurors who are to constitute the Jury shall be taken by lot in the manner prescribed in Section 342, until a Jury, containing the proper number of the races mentioned in Section 323, or a number approaching as nearly thereto as possible, has been obtained. The Jurors shall be liable to the same objections as any other Jurors. If a Jury containing the requisite number of the races mentioned in Section 323 be not obtained, the accused

person may elect to be tried by the Judge with the aid of Assessors; otherwise he shall be tried by the Jury obtained by the means aforesaid.

If, prior to finding, any of the Jury be unable to proceed with the trial.

350. If, in the course of a trial by Jury at any time prior to the finding, any Juror shall, from any sufficient cause, be prevented from attending through the trial, or if any Juror shall absent himself, and it shall not be possible to enforce his attendance, a new Juror shall be added, or the Jury shall be discharged, and a new Jury empanelled, and in either case the trial shall commence anew.

Verdict of guilty by less than the specified majority of Jury.

351. In any trial by Jury if the accused person is found guilty by a majority consisting of a less number of the Jury than is specified in that behalf in Section 328 of the Act, or if the accused be found not guilty by a majority consisting of a less number of the Jury than is therein in that behalf specified, the Jury shall be discharged, and in any such case as aforesaid there shall be a new trial before a Jury consisting entirely of other Jurors, and the accused person may be remanded or held to bail for such new trial. If, on any new trial by Jury, the accused shall not be found guilty by a majority consisting of such a number as aforesaid, he shall be acquitted.

When and how long Jury may retire for finding.

352. At the close of the trial, and after the Judge has summed up the evidence as hereinafter provided by Section 379 of this Act, the Jury may retire to consider their finding, and it shall be the duty of an officer of the Court not to suffer any person to speak to or hold any communication with any member of such Jury. In any case in which a Jury shall be prepared to deliver their finding, the Judge shall ask the Jury whether they are unanimous, and if the foreman or one of the Jury shall declare that they are not unanimous, the Judge may require such Jury to retire for further consideration. If, after such a period as the Judge shall consider reasonable, the foreman or any one of the

Jury shall declare that they are not unanimous, the Jury may deliver their verdict.

If either of the Assessors be unable to proceed with trial.

353. If, in the course of a trial with the aid of Assessors, at any time prior to the finding, any Assessor shall, from any sufficient cause, be prevented from attending through the trial, the trial shall proceed with the aid of the other Assessor or Assessors. If all the Assessors are prevented from attending through the trial, the proceedings shall be stayed, and a new trial shall be held with the aid of fresh Assessors.

Penalty for non-attendance of Juror or Assessor.

354. Any person summoned to attend as a Juror or as an Assessor, who shall without lawful excuse fail to attend as required by the summons, or having attended shall depart without having obtained the permission of the Court, shall be liable by order of the Court of Session to a fine not exceeding 100 Rupees, to be levied by the Magistrate of the District by attachment and sale of any moveable property belonging to such Juror or Assessor within the jurisdiction of the Court making the order, or in default of recovery of the fine by such attachment and sale, such Juror or Assessor may be imprisoned in the Civil Jail for the space of fifteen days if the fine be not sooner paid.

## CHAPTER XXIV.

### OF SUBORDINATE JUDGES AND PRINCIPAL SUDDER AMEENS IN THE PRESIDENCY OF FORT SAINT GEORGE.

Criminal jurisdiction and powers of punishment of Subordinate Judges and Principal Sudder Ameens.

355. The Subordinate Judges and Principal Sudder Ameens in the Presidency of Fort Saint George shall continue to exercise under this Act, subject to the provisions of the Indian Penal Code, the Criminal jurisdiction which they are competent to exercise under any law for the time

being in force, and shall have the same powers of punishment as are given by this Act to an Officer exercising the powers of a Magistrate.

What cases Subordinate Magistrates may commit and what cases they may refer to Magistrate.

356. Subordinate Magistrates of the first and second class in the Presidency of Fort St. George shall commit to the Court of Session any persons charged with offences triable exclusively by that Court, or shall, under such orders as the Sudder Court shall from time to time issue, either commit to the Subordinate Judges or Principal Sudder Ameens the cases of persons accused of offences triable by such Subordinate Judges or Principal Sudder Ameens, or refer such cases for the orders of the Magistrate of the District or other Officer exercising the powers of a Magistrate. If the case be referred to the Magistrate of the District or other Officer as aforesaid, such Magistrate or other Officer shall examine the parties and witnesses, and shall proceed in all respects as if no proceedings had been held in any other Court.

Subordinate Magistrate after trial may refer to Magistrate of the District.

357. If in any case tried by a Subordinate Magistrate of the first or second class in the Presidency of Fort Saint George, in which the accused person is found guilty, such Magistrate shall consider the offence established against the accused person to call for a more severe punishment than such Magistrate is competent to adjudge, he shall record the finding and submit his proceedings to the Magistrate of the District or other Officer exercising the powers of a Magistrate, and the Magistrate of the District or other Officer as aforesaid shall pass such sentence or order in the case as he may deem proper and as shall be according to law. In any such case, the Magistrate or other Officer to whom the proceedings are submitted may examine the parties, and recall and examine any witness who shall already have given evidence in the case, and he may call for or take any further evidence.

Cases committed for trial before Subordinate Judges and Principal Sudder Ameens.

358. In cases committed for trial before the Subordinate Judges or Principal Sudder Ameens in the Presidency of Fort St. George, they shall be guided by the rules contained in this Act for the trial of cases before the Magistrate, which are hereby made applicable to such cases. The Subordinate Judges and Principal Sudder Ameens may commit any case to the Court of Session in which the evidence is such as to warrant a presumption that the accused person has been guilty of an offence calling for a more severe punishment than such Subordinate Judges or Principal Sudder Ameens are authorized to adjudge.

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## CHAPTER XXV.

### TRIALS BEFORE THE COURT OF SESSION.

Cognizance of offences by the Court of Session in original jurisdiction.

359. Except in the cases referred to in Section 172 of this Act, a Court of Session, as a Court of original Criminal jurisdiction, shall not take cognizance of any offence but upon a charge preferred by a Magistrate or other Officer specially empowered under this Act or under any other law to make commitments to such Court.

Every trial before Court of Session to be conducted by Government Pleader, &c.

360. In every trial before a Court of Session the prosecution shall be conducted by the Government Pleader or by some other Officer specially empowered in that behalf, and the complainant, if there be a complainant, shall be examined as a witness in the case.

Postponement of trial.

361. A Court of Session may direct the postponement of a trial, when it is satisfied that such postponement is proper and will promote the ends of justice.

362. When the Court is ready to commence the trial, the accused person shall be brought before it, and the charge shall be read and explained to him, and he shall be asked whether he is guilty of the offence charged, or claims to be tried. If the accused person plead guilty, the plea shall be recorded and the accused may be convicted thereon.

Commencement of trial.

363. If the accused person shall refuse to plead, or shall claim to be tried, the Court shall proceed to try the case, taking all the evidence that is forthcoming.

Refusal to plead, or plea of claim.

364. The provisions of Sections 195, 196, 197, 198, 199, and 200 of this Act, relating to the examination of parties and witnesses, the mode of recording evidence, and the correction, attestation, and interpretation thereof in trials before the Magistrate, shall be applicable to trials before the Court of Session under this Chapter.

Provisions relating to examination of parties, &c., in trials before Magistrate, to be applicable to trials before Court of Session.

365. If any witness shall refuse to answer any question which shall be put to him, and shall not offer any just excuse for such refusal, the Court may commit such witness to custody for such reasonable time as it may deem proper, unless he shall in the meantime consent to be examined and to answer. In the event of such witness persisting in his refusal, he may be dealt with according to the provisions of Section 163 of this Act.

Witness refusing to answer may be committed to custody.

366. The examination of the accused person before the Magistrate shall be given in evidence at the trial. The attestation of the Magistrate shall be sufficient primâ facie proof of such examination, and such attestation shall be admitted without proof of the signature to it, unless the Court shall see reason to doubt its genuineness.

Examination of accused before the Magistrate to be evidence at the trial.

Proof of such examination.

Court may summon necessary evidence.

367. It shall be in the discretion of the Court, at any stage of a trial, to summon and examine any witness whose evidence it shall consider essential to the just decision of the case. The Court may also examine as a witness any person in attendance although not summoned as a witness.

Evidence of Medical witness.

368. The Court shall receive as prima facie evidence the examination of a Civil Surgeon or other Medical witness taken and duly attested by the Magistrate. Provided that it shall be competent to the Court to summon such Civil Surgeon or other Medical witness, if it shall see sufficient cause for doing so.

Examination of witness taken and attested by Magistrate when admissible.

369. The examination of a witness taken and attested by the Magistrate in the presence of the accused person may be given in evidence if the witness be dead or the Court be satisfied that for any sufficient cause his attendance cannot be procured.

Report of Chemical Examiner admissible in evidence.

370. Any document purporting to be a report from the Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report in the course of any Criminal trial or in any preliminary enquiry relating thereto, shall be received in evidence at a trial by the Court of Session, if it bear the signature of such Examiner, and no proof of such signature or that the person signing holds such office, shall be requisite unless the Court shall see reason to doubt the genuineness of the document.

Dying declaration.

371. The declaration of a deceased person, whether it be made in the presence of the accused person or not, may be given in evidence if the deceased person at the time of making such declaration believed himself to be in danger of approaching death, although he entertained at the time of making it hopes of recovery.

Defence.

372. When the case for the prosecution has been brought to a close, the accused person shall be called upon to enter upon his defence, and to produce his evidence.

When accused person may be examined.

373. The Court, at the close of the evidence on behalf of the accused person if any evidence is adduced on his behalf, or otherwise at the close of the case for the prosecution, may put any question to the accused person which it may think proper. It shall be in the option of the accused person to answer such question.

When accused may address the Court.

374. The accused person or his Counsel or Agent may, at his option, address the Court at the close of the case for the prosecution, or at the close of any evidence that may be adduced on his behalf, or if any question shall be put to the accused person by the Court, after such question shall have been so put.

Witness for the defence.

375. The accused person shall be allowed to examine any witness not previously named by him if such witness be in attendance, but he shall not be entitled of right to have any other witness summoned than the witnesses named in the list delivered to the Magistrate by whom he was committed or held to bail for trial, except as provided in Section 246 of this Act.

Prosecutor's right of reply.

376. If any evidence is adduced on behalf of the accused person, or if he answers any question put to him by the Court, the prosecutor, or the Counsel or Agent for the prosecution, shall be entitled to a reply.

Adjournment.

377. The Court may, in its discretion, from time to time adjourn the trial as may be necessary.

Jury or Assessors to attend at adjourned sitting.

378. In the event of the adjournment of a trial by Jury or with the aid of Assessors, the Jury or Assessors

shall be required to attend at the adjourned sitting, and at every subsequent sitting until the conclusion of the trial; and any Juror or Assessor who shall without lawful excuse fail so to attend, shall be liable to the penalty prescribed in Section 354 of this Act, and such penalty shall be enforced in the manner therein prescribed.

Of verdict of Jury.

379. In a trial by Jury, the Judge shall sum up the evidence on both sides, and the Jury shall then deliver their finding upon the charge. A statement of the Judge's direction to the Jury shall form part of the record. In trials not by Jury, the ground of the Judge's decision shall be recorded.

Acquittal or conviction.

380. If the accused person is acquitted, the Court shall record a judgment of acquittal. If the accused person is convicted, the Court shall proceed to pass sentence upon him according to law. Provided that if the Court pass sentence of death, the sentence shall not be executed without the confirmation of the Sudder Court. If the accused person shall be convicted of an offence which by the Indian Penal Code is punishable with death, and the Court shall sentence such person to any punishment other than death, the Court shall state the grounds upon which it remitted the punishment of death in the statement of trials to be periodically submitted to the Sudder Court, as hereinafter required, under the head of "Sentences passed upon the accused persons."

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## CHAPTER XXVI.

### FINDING, JUDGMENT, AND SENTENCE.

What the judgment is to specify.

381. When the trial in any Criminal Court is concluded, the Court, in passing judgment, if the accused person be convicted, shall distinctly specify the offence of which, and the Section of the

Indian Penal Code under which he is convicted, or if it be doubtful under which of two Sections the offence falls, shall distinctly express the same, and pass judgment in the alternative, according to Section 72 of the said Code.

Form of finding and sentence.

382. The finding and sentence shall be recorded in one of the following forms, or to the same effect:—

In trials by Jury:—

When the Jury are unanimous:

The Jury are unanimous in finding that Z is guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code; and the Court directs that the said Z be [*sentence.*]

*2nd.* The Jury are unanimous in finding that Z is not guilty of the offence specified in the charge, namely, that Z has waged war against the Queen, and has thereby committed an offence punishable under Section 121 of the Indian Penal Code; and the Court directs that the said Z be discharged.

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused guilty:

*3rd.* A majority (stating the number, consisting of four out of five, or five or six out of seven, or six, seven, or eight out of nine, as the case may be,) find that Z is guilty of the offence specified in the charge, namely, that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be [*sentence*].

When the Jury are not unanimous, but such a majority as is required by Section 328 of this Act concur in finding the accused not guilty:

*4th.* A majority of the Jury (stating the number as above) find that Z is not guilty of the offence specified in the charge, namely, that Z has, with the intention of inducing the Honorable A. B., a Member of the Council of the Governor-General of India, to refrain from exercising a lawful power as such Member, assaulted such Member, and that he has thereby committed an offence punishable under Section 124 of the Indian Penal Code. The Court directs that the said Z be discharged.

When the Jury, or such a majority as is required by Section 328 of this Act, concur in finding the accused guilty of an offence, but are doubtful under which of two heads of a charge the offence falls:

*5th.* The Jury, or a majority of the Jury (stating the number as above) find that Z is guilty either of the offence specified in the first head of the charge, or of the offence specified in the second head of the charge, namely, that Z has either committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust and has thereby committed an offence punishable under Section 406 of the said Code. The Court directs that, under the provisions of the above mentioned Sections and the provisions of Section 72 of the Indian Penal Code, the said Z be [*sentence*].

When a majority less than the number required by Section 328 of this Act find the accused guilty:

*6th.* A majority of the Jury (stating the number, as above,) find that Z is guilty of the offence specified in the charge, namely, that he has committed, &c., &c., the Court directs that the Jury be discharged, and that there be a new trial.

A similar form shall be followed if a verdict of not guilty is found by a majority less than is required by Section 328 of this Act.

If the finding be on a second trial, and a majority less than is required by Section 328 of this Act find the accused guilty:

*7th.* A majority of the Jury (stating the number, as above) find that Z is guilty of the offence specified in the charge, namely, that he has committed, &c., &c. This being a second trial under Section 351 of the Code of Criminal Procedure, the Court directs that the said Z be discharged.

In trials with Assessors:

*9th.* The Court concurring with the Assessors (or one or more of the Assessors), finds that Z is guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be [*sentence*].

*10th.* The Court, differing from the Assessors, finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed the offence of rioting and has thereby committed an offence punishable under Section 147 of the Indian Penal Code; and the Court directs that the said Z be discharged.

*11th.* The Court, concurring with one of the Assessors finds that Z is guilty either of the offence specified in the first head of charge, or of the offence specified in the second head of charge, namely, that Z has either committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code, or that he has committed criminal breach of trust and has thereby committed an offence punishable under Section 406 of the Indian Penal Code; and the Court directs that, under the provisions of the abovementioned Sections and the provisions of Section 72 of the Indian Penal Code, the said Z be [*sentence*].

In trials upon a formal charge, without Jury or the aid of Assessors:—

*12th.* The Court finds that Z is guilty of the offence specified in the charge, namely, that Z has committed theft and has thereby committed an offence punishable under Section 379 of the Indian

Penal Code; and the Court directs that the said Z be [*sentence*].

13*th*. The Court finds that Z is not guilty of the offence specified in the charge, namely, that Z has committed theft and has thereby committed an offence punishable under Section 379 of the Indian Penal Code; and the Court directs that the said Z be discharged.

In trials in which no formal charge has been prepared:—

14*th*. The Court finds that Z has used criminal force and has thereby committed an offence punishable under Section 353 of the Indian Penal Code, and directs that the said Z be [*sentence*].

15*th*. The Court finds that the complaint of assault is not proved, acquits Z, and directs that he be discharged.

Execution of sentence of Court in cases referred to the Sudder Court for confirmation of sentence.

383. In cases referred by the Court of Session for the confirmation of a sentence by the Sudder Court, the proper Officer of the Sudder Court shall, without delay, after the order of confirmation or other order has been made by the Sudder Court, transmit a copy of the order under the seal of the Sudder Court, and attested with his official signature, to the Court of Session, which, if the sentence be confirmed, shall immediately issue a warrant to the Magistrate or other Officer in charge of the jail in which the prisoner is confined to cause the sentence or order to be carried into execution; or in the case of any other order, shall cause such order to be carried into effect.

Court of Session to direct warrant to district Magistrate.

384. In cases tried by the Court of Session the Court shall forward a copy of its sentence, together with a warrant for the execution of the same, directed to the Magistrate of the District in which the trial was held or to such other Officer as aforesaid.

385. Upon the receipt of a warrant under either of the last two preceding Sections the Magistrate or other Officer as aforesaid shall cause the sentence to be executed, and shall return the warrant, when the sentence has been fully executed, to the Court from which it issued, with an endorsement under his signature, certifying the manner in which the sentence has been executed.

Execution of sentence under two last foregoing Sections.

386. In every case of imprisonment under the sentence of the Sudder Court or of a Court of Session, the Magistrate or other Officer as aforesaid shall issue his warrant to the jailor, stating the offence of which the accused person has been convicted, and the period during which he is to be imprisoned and the nature of the imprisonment. In every case of imprisonment under the sentence of any other Court, the Court passing the sentence shall issue its warrant to the jailor, and the warrant shall contain the same particulars and be to the same effect.

Warrant of commitment in cases of imprisonment.

387. The Court of Session shall transmit to the Sudder Court such periodical statements or calendars of trials held by such Court as the Sudder Court shall prescribe, exhibiting the offences charged, the offences of which the accused persons are convicted, and the sentences or orders passed upon them.

Transmission of periodical calendars of trials by Court of Session.

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## CHAPTER XXVII.

### Of Lunatics.

388. When any person who is charged with an offence shall appear to the Magistrate having jurisdiction to be of unsound mind and incapable, in consequence, of making a defence, the Magis-

Procedure in case of accused person being lunatic.

trate shall institute an enquiry to ascertain the fact of such unsoundness of mind, and shall cause the accused person to be examined by the Civil Surgeon of the District or some other Medical Officer, and thereupon shall examine such Civil Surgeon or other Medical Officer, and shall reduce the examination into writing; and if the Magistrate shall be of opinion that the accused person is of unsound mind, he shall stay further proceedings in the case.

Procedure in case of person committed before a Court of Session being lunatic.

389. If any person who shall be committed for trial before a Court of Session, shall at his trial appear to the Court to be of unsound mind and incapable of making his defence, the Court shall in the first instance try the fact of such unsoundness of mind, and if satisfied of the fact, shall give a special judgment that the accused person is of unsound mind and incapable of making his defence, and thereupon the trial shall be postponed.

Release of lunatic pending investigation or trial.

390. In any case in which an accused person is found to be of unsound mind and incapable of making his defence, the Magistrate or Court of Session as the case may be, if the offence be bailable, may release such person on sufficient security being given that he shall be properly taken care of, and shall be prevented from doing injury to himself or to any other person, and for his appearance when required. If the offence be not bailable, or if the required bail be not given, the accused person shall be kept in safe custody in such place as the local Government to which the case shall be reported shall direct.

Resumption of investigation of case.

391. Whenever any investigation of trial of a case shall be postponed under Section 388 or Section 389 of this Act, the Magistrate or Court of Session, as the case may be, may at any time resume the investigation or trial, and require the accused person, if detained in custody, to be brought before such Ma-

gistrate or Court, or if the accused person has been released on security, may require his appearance. Until such investigation or trial is completed, the case shall be considered as pending before the Magistrate or Court of Session, and shall be included in any register of pending cases kept by such Magistrate or Court. The surety of such person shall be bound at any time to produce him to any Officer whom the Magistrate or Court of Session may appoint to inspect him, and the certificate of such Officer shall have the same effect as the certificate of an Inspector of Jails or the Visitors of Lunatic Asylums granted under Section 395 Clause 2 of this Act.

Procedure on accused appearing or being brought before Magistrate or Court of Session.

392. If, when the accused person appears or is again brought before the Magistrate or the Court of Session as the case may be, it shall appear to such Magistrate or Court that the accused person is in a fit state of mind to make his defence, the investigation shall proceed, or the accused person shall be put on his trial, as the case may require. If it shall appear that the accused person is still of unsound mind and incapable of making his defence, the Magistrate or Court of Session shall again act according to the provisions of Section 388 or Section 389 of this Act.

Procedure in case of acquittal of accused person on the ground of being lunatic.

393. Whenever any person is acquitted, upon the ground that at the time at which he is charged to have committed an offence he was by reason of unsoundness of mind incapable of knowing the nature of the act charged or that he was doing what was wrong or contrary to law, the finding shall state specially whether he committed the act or not.

Person so acquitted to be disposed of by Magistrate or Court of Session for safe custody, &c.

394. Whenever such finding shall state that the accused person committed the act charged, the Magistrate or Court of Session before whom the trial was held, shall, if the act charged would, but for the incapacity found, have

amounted to an offence, order such person to be kept in safe custody, in such place and manner as to the Magistrate or Court of Session shall seem fit, and shall report the case for the order of the local Government. The local Government may order such person to be kept in safe custody in a Lunatic Asylum or other suitable place of safe custody.

Lunatics to be visited and reported on by Inspector of Jails, &c.

395. *Clause* 1. When any person is confined under the provisions of Section 390 or Section 394 of this Act, it shall be lawful for the Inspector of Jails if such person is confined in a Jail, or for the Visitors of Lunatic Asylums or any two of them if such person is confined in a Lunatic Asylum, to visit such person in order to ascertain his state of mind; and such person shall be visited once at least in every twelve months by such Inspector of Jails or by two of such Visitors as aforesaid, who shall make a special report as to the state of mind of such person.

If lunatic confined under Section 390 is reported capable of making his defence.

*Clause* 2. If such person is confined under Section 390 of this Act and such Inspector of Jails or such Visitors of Lunatic Asylums as aforesaid shall report that in his or their opinion such person is capable of making his defence, such person shall be taken before the Magistrate or Court of Session as the case may be, at such time as such Magistrate or Court of Session shall appoint; and such Magistrate or Court shall deal with such person under the provisions of Section 392, and may receive as evidence the certificate of such Inspector of Jails or such Visitors of Lunatic Asylums as aforesaid.

If lunatic confined under Section 394 is declared capable of being discharged.

*Clause* 3. If such person shall be confined under the provisions of Section 394 of this Act and such Inspector of Jails or such Visitors of Lunatic Asylums as aforesaid shall certify that in his or their judgment such person may be discharged without danger of his doing injury to himself or to any other person, the local Government shall thereupon either

order his discharge or order such person to be transferred to a public Lunatic Asylum if he has not been already sent to such an Asylum, and shall within six months appoint a Commission consisting of a Judicial Officer not below the grade of a Sessions Judge, and two Medical Officers whereof the Chief Medical Officer attached to the Lunatic Asylum shall be one. The said Commission shall make formal enquiry into the state of mind of such person, taking such evidence as shall be necessary; and if they consider that he can be set at liberty without danger to himself or to any other person, he shall be discharged.

Person under sentence of imprisonment, appearing to be of unsound mind, may be removed to Lunatic Asylum, and kept till he shall again become of sound mind, &c.

396. Whenever it shall appear to the local Government that any person imprisoned by the sentence of any Court or Magistrate is of unsound mind, the local Government, by an order which shall set forth the grounds of belief that such prisoner is of unsound mind, may order the removal of such prisoner to a Lunatic Asylum, there to be kept and treated as the local Government shall direct during the remainder of the term of imprisonment ordered by the sentence, or if it shall be certified by a Medical Officer that it is necessary for the safety of the prisoner or others that he should be detained under care and treatment, then until he shall be discharged according to law; and when it shall appear to the local Government that such person has become of sound mind, the local Government by an order directed to the person having charge of him, shall remand such person to the custody from which he was removed, if then still liable to be kept in custody, or, if not, shall order him to be discharged out of custody. The provisions of Section 9 of Act XXXVI. of 1858 *(relating to Lunatic Asylums)* shall apply to persons confined in a Lunatic Asylum under this Section after the expiration of the imprisonment ordered by the sentence. The period during

which a person shall be confined in a Lunatic Asylum shall be reckoned as part of the period of imprisonment ordered by the sentence.

When lunatic may be delivered over to the care and custody of a relative or friend.

397. Whenever any relative or friend of any person detained under the provisions of Section 394 of this Act is desirous that such person shall be delivered over to his care and custody, the local Government, upon the application of such relative or friend and on his giving security to the satisfaction of such Government that the person detained shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, may make an order that the person so detained may be delivered to such relative or friend. Whenever such person shall be so delivered over, it shall be upon condition that he shall be subject to the inspection of such Officer as the local Government shall think necessary to appoint, and at such times as such Government shall direct. The provisions of Section 395 shall apply to persons detained under the provisions of this Section, and the certificate of the Inspecting Officer appointed under this Section shall have the same effect as a certificate of an Inspector of Jails or the Visitors of Lunatic Asylums under the said Section.

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## CHAPTER XXVIII.

### SUDDER COURT AS A COURT OF REFERENCE.

Constitution of Court for hearing case referred for confirmation of sentence.

398. A case referred to a Sudder Court by a Court of Session for confirmation of a sentence of death shall be heard by a Court constituted by two or more Judges of such Sudder Court.

Power of Sudder Court to confirm, reverse, &c., sentence.

399. In any case so referred, the Sudder Court may either confirm the sentence or pass any other sentence warranted by law or may annul the

conviction and order a new trial on the same or an amended charge. If the case shall have been tried by the Court of Session with the aid of Assessors, it shall further be competent to the Sudder Court to acquit the accused person and order his discharge.

Competence of Sudder Court to direct further enquiry, &c.

400. If the case so referred shall have been tried by the Court of Session with the aid of Assessors, it shall be competent to the Sudder Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused person to be necessary, to direct such enquiry to be made, or such additional evidence to be taken. The result of the further enquiry and the additional evidence shall be certified to the Sudder Court and the Sudder Court shall thereupon proceed to pass judgment of acquittal or such sentence as to the Court shall seem right.

Confirmation or new sentence must be signed by two Judges.

401. In every case so referred to the Sudder Court, the confirmation of the sentence or any new sentence or order passed by the Sudder Court shall be signed by at least two Judges of the Court.

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## CHAPTER XXIX.

### SUDDER COURT AS A COURT OF REVISION.

Revision in cases of illegal sentence.

402. The Sudder Court, in any case tried by the Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it shall appear that the sentence passed is one which cannot lawfully be passed on a person convicted of the offence as stated in the abstract statement or calendar, shall annul the sentence, and shall certify to the Court of Session the sentence which may lawfully be passed for such offence; and thereupon the Court of Session shall

pass a new sentence according to law, and shall amend the record in accordance therewith.

Revision of trials.

103. The Sudder Court, in any case tried before a Court of Session in which, upon a review of the abstract statement or calendar of prisoners punished without reference, it shall appear that there has been error in the decision of the Court of Session on a point of law, or that a point of law should be considered by the Sudder Court, may call for the record, or such portion thereof as it may deem necessary, together with a report of the Judge's direction to the Jury, if the case have been tried by a Jury, and upon reviewing the depositions of the witnesses, the direction of the Judge, and the conviction, may determine any point of law arising out of the case, and thereupon pass such order as to the Sudder Court shall seem right.

General power of revision by the Sudder Court.

104. The Sudder Court may, on the report of a Court of Session or of a Magistrate, or whenever it thinks fit, call for the record of any criminal trial or the record of any judicial proceeding of a Criminal Court other than a criminal trial in any Court within its jurisdiction, in which it shall appear to it that there has been error in the decision on a point of law, or that a point of law should be considered by the Sudder Court, and may determine any point of law arising out of the case, and thereupon pass such order as to the Sudder Court shall seem right.

Sudder Court empowered to call for and examine records of Court of Session.

105. It shall be lawful for the Sudder Court to call for and examine the record of any case tried by any Court of Session for the purpose of satisfying itself as to the legality or propriety of any sentence or order passed, and as to the regularity of the proceedings of such Court. If it appear to the Sudder Court that the sentence passed is too severe, the Sudder Court may pass any mitigated sentence warranted by law. If the Sudder Court shall be of

opinion that the sentence or order is contrary to law, the Sudder Court shall reverse the sentence or order, and pass such judgment, sentence, or order as to the Court shall seem right, or, if it deem necessary, may order a new trial.

Proceedings of a case revised by Sudder Court to be certified to Court in which conviction was had.

406. Whenever a case shall be revised by the Sudder Court under this Chapter, the Sudder Court shall certify its decision or order to the Court in which the conviction was had, or by which the order was passed, and such Court shall thereupon make such orders as are conformable to the decision of the Sudder Court, and if necessary amend the record in accordance therewith.

Proviso.

Provided that, in any case which shall be revised by the Sudder Court under this Chapter, it shall not be competent to the Sudder Court, to reverse the verdict of the Jury, or, except as provided in this Chapter, to alter or reverse the sentence or order of the Court below.

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## CHAPTER XXX.

### APPEALS.

No appeal in cases of acquittal.

407. There shall be no appeal from a judgment of acquittal passed in any Criminal Court.

Appeals in what cases in trials by Jury or with Assessors.

408. Any person convicted on a trial held by a Court of Session may appeal to the Sudder Court. If the conviction was in a trial held with the aid of Assessors, the appeal may be on a matter of fact as well as on a matter of law. If the conviction was on a trial by Jury, the appeal shall be admissible on a matter of law only.

Appeals from Magistrates.

409. Any person convicted on a trial held by the Magistrate of the District or other Officer exercising the powers of a Magistrate, or required by such Magistrate

or other Officer under Section 295 or Section 296 of this Act to give security for good behaviour, may appeal to the Court of Session to which such Magistrate or other Officer is subordinate.

Appeals from Justices of the Peace.

410. Any person convicted and sentenced by any Justice of the Peace exercising jurisdiction under the Statute 53, George III. Chapter 155, Section 105 or under Act VII. of 1853 *(to extend the jurisdiction of Magistrates under the 53 George III. Chapter 155, Section 105 in cases of assault, forcible entries, and other injuries accompanied with force not being felonies)* or under Section 163 or 165 of this Act, may appeal to the Court of Session having jurisdiction at the place at which the appeal would have been heard had the sentence been passed by a Magistrate subordinate to such Court. Cases appealed under this Section shall not be afterwards liable to revision by means of a writ of *certiorari*. Provided that nothing in the Section shall be held to take away the power of quashing any conviction by means of a writ of *certiorari* in any other case than when there has been such an appeal as aforesaid.

No appeal in certain criminal cases.

411. In all cases in which a Court of Session or the Magistrate of a District or other Officer exercising the powers of a Magistrate shall pass a sentence of imprisonment not exceeding one month, or of a fine not exceeding fifty Rupees, no appeal shall be allowed.

Appeals from Officers exercising powers less than those of a Magistrate.

412. Any person convicted on a trial held by an Officer exercising powers less than those of a Magistrate, may appeal to the Magistrate of the District or other Officer exercising the powers of a Magistrate who shall have been empowered by the Government to hear such appeals.

Appeals from orders under Chapter X.

413. Any person convicted by any Civil Court under Chapter X. of this Act, may appeal to the Court to which decrees or orders made in such Court are ordinarily

appealable, subject to the rules provided in Sections 416, 417, 418, 419 and 421 of this Act. Petitions of appeal under this Section, if presented to any District Court, must be presented within thirty days immediately following and exclusive of the day on which the sentence or order appealed against is passed. Petitions of appeal to the Sudder Court must be presented within sixty days calculated as above. The Sudder and District Courts may admit an appeal after the time herein provided on sufficient cause shown.

Unless otherwise provided, no appeal to lie from any order or sentence of a Criminal Court.

414. Unless otherwise provided by this Act or by any other law for the time being in force, no appeal shall lie from any order or sentence of a Criminal Court.

Period for presenting petitions of appeal.

415. Petitions of appeal to the Court of Session or to any Court subordinate to the Court of Session must be presented within thirty days immediately following and exclusive of the day on which the sentence or order appealed against is passed. Petitions of appeal to the Sudder Court must be presented within sixty days calculated as above. The Sudder Court and the Court of Session may admit an appeal after the time herein provided on sufficient cause shown.

Copy of Judgment to accompany petition.

416. Every petition of appeal shall be accompanied by a copy of the sentence or order appealed against.

Appellate Court may reject petition of appeal.

417. It shall be competent to the Appellate Court to reject the appeal if, on a perusal of the petition of appeal and the copy of the sentence or order appealed against, and after hearing the appellant or his counsel or agent if they appear, the Court shall consider that there is no sufficient ground for questioning the correctness of the decision or for interfering with the sentence or order appealed against. Before rejecting the appeal, the Court may call for and

peruse any part of the proceedings of the lower Court, but shall not be bound so to do.

Appeal by party in Jail.

418. If the party appealing be in jail in pursuance of the sentence or order appealed against, he shall be at liberty to present his petition of appeal and the copy of the sentence or order appealed against to the Magistrate or other Officer in charge of the jail, who shall thereupon forward the petition to the proper appellate authority.

Appellate Court may call for the proceedings of lower Court.

419. The Appellate Court, after perusing the proceedings of the lower Court, and after hearing the plaintiff or his counsel or agent if they appear, may alter or reverse the finding and sentence or order of such Court, but not so as to enhance any punishment that shall have been awarded.

The Signature of the Judges necessary.

420. The sentence or order of the Sudder Court, modifying, amending, or reversing the sentence or order of a lower Court on appeal or revision, shall be signed by at least two Judges of such Sudder Court.

Appellate Court may suspend sentence pending appeal, and release defendant on bail.

421. In any case in which an appeal is allowed, the Appellate Court may, pending the appeal, order that the sentence be suspended, and if the appellant be in confinement for an offence which is bailable, may order that he be released on bail.

Appellate Court may direct further enquiry, &c.

422. In any case in which an appeal has been allowed, it shall be competent to the Appellate Court, if it think further enquiry or additional evidence upon any point bearing upon the guilt or innocence of the accused to be necessary, to direct such enquiry to be made and additional evidence to be taken. The result of the further enquiry and the additional evidence shall be certified to the Appellate Court, and the Appellate Court shall thereupon pro-

ceed to pass such judgment, sentence, or order as to such Court shall seem right.

Finding of dishonest misappropriation not reversible on the ground of the offence proved being theft.

423. No finding by a Court of the offence of dishonest misappropriation of property under Section 403 of the Indian Penal Code, or of dishonest misappropriation of property possessed by a deceased person at the time of his death under Section 404 of the said Code, or of criminal breach of trust under Section 405 of the said Code, or of criminal breach of trust by carrier, wharfinger or warehouse-keeper under Section 407 of the said Code, or of criminal breach of trust as a clerk or servant under Section 408 of the said Code, shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was the offence of theft under Section 378 of the said Code, or the offence of theft in a building, tent or vessel under Section 380 of the said Code, or the offence of theft as a clerk or servant of property in the possession of his master under Section 381 of the said Code.

Finding of theft not reversible on the ground of the offence proved being dishonest misappropriation.

424. No finding by a Court of the offence of theft under the said Section 378 of the Indian Penal Code, or of theft in a building, tent or vessel under the said Section 380, or of theft as a clerk or servant of property in the possession of his master under the said Section 381, shall be liable to be reversed or altered by any Court, whether on appeal or revision, on the ground that the offence proved by the evidence was the offence of dishonest misappropriation of property under the said Section 403, or the offence of dishonest misappropriation of property possessed by a deceased person at the time of his death under the said Section 404, or the offence of such dishonest misappropriation under the said Section, the offender being at the time of the person's decease employed by him as a clerk or servant, or the offence of criminal breach of trust under the said Section 405, or the of-

fence of criminal breach of trust as a carrier, wharfinger or warehouse-keeper under the said Section 407, or the offence of criminal breach of trust as a clerk or servant under the said Section 408.

Saving of power of Appellate Court to reduce punishment awarded under last two Sections.

425. Provided that nothing in the last two Sections shall preclude the Appellate Court in any case mentioned therein from reducing the punishment awarded by a lower Court in such case within the limits prescribed for the offence which such Appellate Court shall consider to have been proved by the evidence against the accused person.

Finding or sentence not ordinarily reversible by reason of error or defect in the charge or the proceedings.

426. No finding or sentence passed by a Court of competent jurisdiction shall be reversed or altered on appeal or revision on account of any error or defect either in the charge or in the proceedings on trial, unless the person accused shall have been sentenced to a larger amount of punishment than could be awarded for the offence of which, in the judgment of the Appellate Court, the accused person ought upon the evidence to have been found guilty, or unless, in the judgment of the Appellate Court, the accused person shall have been prejudiced by such error or defect;

Appellate Court may reduce punishment.

and in case the accused person shall have been sentenced to a larger amount of punishment than could have been awarded for the offence which, in the judgment of the Appellate Court, is proved by the evidence, the Appellate Court may reduce the punishment within the limits prescribed by the Indian Penal Code or any law for the time being in force for such offence.

Court of appeal how to proceed in case of conviction by a Court not having jurisdiction.

427. When a Court subordinate to a Court of Session shall have convicted a person of an offence not triable by such Court it shall be competent to the Appellate Court to annul the conviction and sentence of such Court, and

to direct the trial of the case by a Court of competent jurisdiction.

Finality of orders on appeal.

428. Except as provided in Section 405 of this Act, sentences and orders passed by an Appellate Court upon appeal shall be final.

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## CHAPTER XXXI.

### General Rules.

In what language sentence to be written.

429. Every sentence or final order of a Criminal Court, together with the reasons for making or passing the same, shall be written in the vernacular language of the presiding Officer, and shall be dated and signed by such Officer at the time of his making or passing the same, and the original shall be filed with the record or proceedings, and a translation thereof, where the original is recorded in a different language from that in ordinary use in proceedings before such Officer, shall be incorporated in the record of the sentence or order.

When it may be written in English.

430. If the vernacular language of the presiding Officer be not English, and the Officer be sufficiently conversant with the English language to be able to write the sentence or final order in a clear and intelligible manner in that language, and prefer to write the same in that language, the sentence or final order may be written in English.

Employment of Interpreter.

431. When the services of an interpreter are required by any Criminal Court for the interpretation of any evidence or statement, such interpreter shall be sworn in the manner provided for witnesses by any law for the time being in force to interpret truly such evidence or statement, and such

interpreter shall be bound to state the truth in his interpretation of such evidence or statement.

Right of accused to be defended by Counsel.

432. Every person charged before any Criminal Court with an offence may of right be defended by Counsel or authorized agent.

Confinement of youthful offenders in reformatories.

433. When any person under the age of sixteen years shall be sentenced by any Magistrate or Court of Session to imprisonment for any offence, it shall be lawful for such Magistrate or Court to direct that such offender, instead of being imprisoned in the Criminal Jail, shall be confined in any reformatory which may be recognised by the Local Government as a fit place for confinement, in which there may be means of suitable discipline and of training in some branch of useful industry, and which shall be kept by a person willing to obey such rules as the Government may direct with regard to the discipline and training of persons confined therein. All persons confined under this Section shall be subject to the rules so laid down by Government.

Powers of Court of Session and Magistrate to regulate the proceedings of Subordinate Courts.

434. It shall be at all times lawful for a Court of Session and for a Magistrate to call for and examine the record of any Court immediately subordinate to such Court or Magistrate for the purpose of satisfying themselves as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such Subordinate Court. If the Court of Session or Magistrate shall be of opinion that the sentence or order is contrary to law, the Court or Magistrate shall refer the proceedings for the orders of the Sudder Court. It shall not be lawful for any other Court than the Sudder Court to alter any sentence or order of any Subordinate Court except upon appeal by parties concerned duly made according to the provisions of Chapter XXX. of this Act.

435. In the case of offences not triable by the Magistrate, the Court of Session may order the commitment to the Court of Session of any accused person who may have been discharged by the Magistrate. In the case of such offences the Court of Session may order an enquiry into any complaint which the Magistrate may have dismissed without enquiry.

When Court of Session may order commitment of party discharged by Magistrate

436. The Court of Session may direct that any accused person shall be admitted to bail or that the bail required by a Magistrate be reduced.

Power of Court of Session to direct bail.

437. When any person is required by any Criminal Court to give bail, it shall be lawful to such Court to permit such person to deposit a sum of money or Government Promissory notes to such amount as such Court may fix in lieu of such bail.

Deposit may be made instead of bail.

438. It shall be lawful for the Court of Session, in any case in which it shall appear proper, to order payment by or on the part of Goverment of the reasonable expenses of any complainant or witness attending for the purpose of any trial before such Court under this Act.

Expenses of prosecutors and witnesses

439. No trial held in any Criminal Court shall be set aside, and no judgment passed by any Criminal Court shall be reversed either on appeal or otherwise for any irregularity in the proceedings of the trial, unless such irregularity have occasioned a failure of justice.

No trial, &c, to be set aside for irregularity of procedure.

440. A copy of the final sentence or order passed by any Criminal Court shall be furnished without delay on the application of any party to the case in which such sentence or order was passed. Such copy shall be made at the expense of the party applying for it, unless such party is in confinement

Copy of sentence &c order to be furnished on application.

under the sentence or order and is desirous of appealing against the same, or unless the Court shall for any special reason see fit to grant such copy free of expense.

Act not to take effect in Presidency Towns or Straits' Settlement.

441. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure of the Chief Commissioner of Police, the Police Magistrates, or the Police of the Towns of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca, except so far as this Act expressly provides for the same.

Saving of jurisdiction and procedure of Heads of Villages, Village Police Officers, &c.

442. Nothing in this Act shall be held to alter or affect the jurisdiction, duties, or procedure of landholders especially empowered according to law in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of the Heads of Villages in the Presidency of Fort Saint George, nor to alter or affect the jurisdiction, duties, or procedure of Village Police Officers in the Presidency of Bombay, nor to alter or affect the jurisdiction or procedure of any Officer duly authorized and appointed under the laws in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of petty offences in Military Bazars at Cantonments and Stations occupied by the Troops of those Presidencies respectively.

Of Officers exercising jurisdiction over petty offences in Military Cantonments.

Sudder Court to make general rules for regulating proceedings, &c.

443. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and of all Criminal Courts subordinate to it, and also to frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it shall think necessary that a form should be provided, for keeping all books, entries, and accounts to be kept in such Courts, and for the preparation and transmission of any calendars or statements to be prepared and sub-

mitted by such Courts, and from time to time to alter any such rule or form, provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force. Any rules framed by the Courts under this Section shall be published in the Official Gazette.

Procedure of this Act to be followed in miscellaneous criminal cases and proceedings.

444. The procedure prescribed by this Act shall be followed, so far as it can be, in all Miscellaneous Criminal cases and proceedings which, after the passing of this Act, shall be instituted in any Court.

Act not to take effect in places not subject to the general Regulations until extended thereto.

445. This Act shall come into operation in the Presidencies of Bengal, Madras, and Bombay on the first day of January, 1862, but shall not take effect in any part of the territories in British India not subject to the General Regulations of Bengal, Madras, or Bombay, until the same shall be extended thereto by the Governor-General of India in Council or by the local Government to which such territory is subordinate and until such extension shall have been notified in the Gazette.

# APPENDIX OF FORMS.

## A.

FORM OF SUMMONS (*Section* 69).

To A. B., of

Whereas your attendance is necessary to answer to a charge of *(state shortly the offence charged)*: You are hereby required to appear in person *(or by authorised agent as the case may be)* before the [Magistrate] of ——— on the ——— day of ———. Herein fail not.

*(Signature and Seal.)*

Dated the ——— day of

## B.

FORM OF WARRANT (*Section* 76).

To ——— *(name and designation of the person or persons who are to execute the warrant)*.

Whereas ——— of ——— stands charged with the offence of *(state the offence)*: You are hereby directed to apprehend the said ——— and to produce him before me. Herein fail not.

*(Signature and Seal)*

This warrant may be endorsed as follows:—

If the said ——— shall give bail, himself in the sum of ——— with one surety in the sum of ———

(or two sureties each in the sum of ———) to appear before me on the ——— day of ——— he may be released.

Dated

*Signature.*

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C.

FORM OF WARRANT OF COMMITMENT (*Section* 222).

To —— Jailor of

Whereas ——— of ——— is charged with *(state the offence in respect of which the prisoner is charged; and the authority of the committing Officer)*: You are hereby required to receive the said ——— into your custody in the said jail of ——— and him there safely to keep until he shall be thence delivered by due course of law.

Dated the ——— day of

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D.

FORM OF BOND TO KEEP THE PEACE (*Section* 284).

Whereas I —— inhabitant of —— have been called upon to enter into a bond to keep the peace for the term of ———, I hereby bind myself not to commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of ——— Rupees.

Dated

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said ———, that he shall not commit a breach of the peace or do any act that may probably occasion a breach of the peace during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of ——— Rupees.

Dated

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E.

FORM OF RECOGNIZANCE TO PROSECUTE OR GIVE EVIDENCE (*Sections* 158 *and* 232).

I ——— of ——— do hereby bind myself to appear at ——— in the Court of ——— at —— o'clock on the ——— day of ——— next, and then and there to prosecute (or, as the case may be, to prosecute and give evidence or "to give evidence") in the matter of a charge of ——— against one A. B., and in case of my making default herein, I bind myself to forfeit to Her Majesty the sum of ——— Rupees.

---

F.

FORM OF BOND FOR GOOD BEHAVIOUR (*Section* 300).

Whereas I ——— inhabitant of ——— have been called to enter into a bond to be of good behaviour to Her Majesty the Queen, and to all Her subjects for the term of ——— I hereby bind myself

to be of good behaviour to Her Majesty and to all her subjects during the said term, and in case of my making default therein, I bind myself to forfeit to Her Majesty the sum of ———— Rupees.

Dated

---

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

I hereby declare myself surety for the above said ———— that he shall be of good behaviour to Her Majesty and to all her subjects during the said term; and in case of his making default therein, I hereby bind myself to forfeit to Her Majesty the sum of ———— Rupees.

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## SCHEDULE.—*(Referred to in Section 22 and elsewhere in this Act.)*

*Explanatory Notes*:—1st.—The entries in the 2nd and 6th Columns of the Schedule headed respectively "Offence" and "Punishment under the Indian Penal Code," are not intended as definitions of the offences and punishments described in the several corresponding Sections of the Indian Penal Code, or even as abstracts of those Sections, but merely as references to the subject of the Section, the number of which is given in the 1st Column.

2nd.—The term "Whether bailable or not," in Column 5, is to be taken in connexion with the provisions of Sections 212 and 213 of this Code.

3rd.—Offences may be tried by a Court superior to the Court specifically mentioned in Column 7. For example, a Court of Session may try an offence entered in Column 7 as triable by a Magistrate.

4th.—Any offence which is triable by an Officer exercising the powers of a Magistrate may be tried by a Subordinate Judge or a Principal Sudder Ameen in the Presidency of Fort St. George.

5th.—The words "Magistrate of the District," as used in Column 7, shall include any Officer exercising the powers of a Magistrate.

6th.—The words "any Magistrate," as used in Column 7, shall include any subordinate Magistrate of the 1st or 2nd Class.

7th.—In the Territories in British India to which the General Regulations of Bengal, Madras, and Bombay do not extend, the powers given by this Act shall be exercised by such Officers as the Local Government of those Territories respectively shall appoint.

## CHAPTER V.—OF ABETMENT.

| 1. Section. | 2. Offence. | 3. Whether the Police may arrest without warrant or not. | 4. Whether a warrant or a summons shall ordinarily issue in the first instance. | 5. Whether bailable or not. | 6. Punishment under the Indian Penal Code. | 7. By what Court triable. |
|---|---|---|---|---|---|---|
| 109 | Abetment of any offence, if the act abetted is committed in consequence, and where no express provision is made for its punishment. | May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise. | According as a warrant or summons may issue for the offence abetted. | According as the offence abetted is bailable or not. | The same punishment as for the offence abetted. | By the Court by which the offence abetted is triable. |
| 110 | Abetment of any offence if the person abetted does the act with a different intention from that of the abettor. | do. | do. | do. | do. | do. |
| 111 | When one act is abetted and a different act is done, subject to the proviso. | do. | do. | do. | The same punishment as for the offence intended to be abetted. | do. |
| 113 | When an effect is caused by the act abetted different from that intended by the abettor | do. | do. | do. | The same punishment as for the offence committed. | do. |
| 114 | If abettor is present when offence is committed. | do. | do. | do. | do. | do. |

## CHAPTER V.—OF ABETMENT.—*(Continued)*

| 1 Section. | 2. Offence. | 3. Whether the Police may arrest without warrant or not. | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5. Whether bailable or not. | 6. Punishment under the Indian Penal Code. | 7. By what Court triable. |
|---|---|---|---|---|---|---|
| 115 | Abetment of an offence punishable with death or transportation for life if the offence be not committed in consequence of the abetment. | May arrest without warrant, if arrest for the offence abetted may be made without warrant, but not otherwise. | According as a warrant or summons may issue for the offence abetted. | Not bailable. | Imprisonment of either description for 7 years and fine. | By the Court by which the offence abetted is triable. |
| | If an act which causes harm be done in consequence of the abetment. | do. | do. | do. | Imprisonment of either description for 14 years, and fine. | do. |
| 116 | Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment. | do. | do. | do. | Imprisonment extending to ½ part of the longest term and of any description provided for the offence, or fine, or both. | do. |
| | If the abettor or the person abetted be a public servant, whose duty it is to prevent the offence. | do. | do. | do. | Imprisonment extending to ½ of the longest term and of any description provided for the offence, or fine, or both. | do. |
| 117 | Abetting the commission of an offence by the public, or by more than ten persons | do. | do. | do. | Imprisonment of either description for 3 years, or fine, or both. | do. |
| 118 | Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed | do. | do. | do. | Imprisonment of either description for 7 years, and fine. | do. |
| | If the offence be not committed. | do. | do. | do. | Imprisonment of either description for 3 years, and fine. | do. |
| 119 | A public servant concealing a design to commit an offence, which it is his duty to prevent, if the offence be committed | do. | do. | According as the offence abetted is bailable or not. | Imprisonment extending to ½ of the longest term and of any description provided for the offence, or fine, or both. | do. |
| | If the offence be punishable with death or transportation | do. | do. | Not bailable. | Imprisonment of either description for 10 years. | do. |
| | If the offence be not committed. | do. | do. | According as the offence abetted is bailable or not. | Imprisonment extending to ¼ part of the longest term and of any description provided for the offence, or fine, or both. | do. |

| | | | | | | |
|---|---|---|---|---|---|---|
| 120 | Concealing a design to commit an offence punishable with imprisonment, if the offence be committed. | do. | do. | do. | Imprisonment extending to ½ part of the longest term and of the description provided for the offence, or fine, or both. | do. |
| | If not committed. | do | do. | do. | Imprisonment extending to ¼ part of the longest term and of the description provided for the offence, or fine, or both. | do. |

## CHAPTER VI.—OFFENCES AGAINST THE STATE.

| | | | | | | |
|---|---|---|---|---|---|---|
| 121 | Waging or attempting to wage war, or abetting the waging of war against the Queen. | Shall not arrest without warrant. | Warrant. | Not bailable. | Death, or transportation for life, and forfeiture of property. | Court of Session. |
| 122 | Collecting arms, &c., with the intention of waging war against the Queen. | do. | do. | do. | Transportation for life, or imprisonment of either description for 10 years, and forfeiture of property | do. |
| 123 | Concealing with intent to facilitate a design to wage war. | do. | do | do. | Imprisonment of either description for 10 years, and fine. | do. |
| 124 | Assaulting Governor General, Governor, &c, with intent to compel or restrain the exercise of any lawful power. | do. | do. | do. | Imprisonment of either description for 7 years, and fine. | do. |
| 125 | Waging war against any Asiatic power in alliance or at peace with the East India Company, or abetting the waging of such war | do. | do. | do. | Transportation for life and fine, or imprisonment of either description for 7 years and fine, or fine | do. |
| 126 | Committing depredation on the territories of any power in alliance or at peace with the East India Company. | do. | do | do. | Imprisonment of either description for 7 years and fine, and forfeiture of certain property. | do. |
| 127 | Receiving property taken by war or depredation mentioned in Sections 125 & 126 | do. | do. | do. | do. | do. |
| 128 | Public servant voluntarily allowing Prisoner of State or War in his custody to escape. | do. | do. | do. | Transportation for life, or imprisonment of either description for 10 years, and fine. | do. |
| 129 | Public servant negligently suffering Prisoner of State or War in his custody to escape. | do | do. | Bailable | Simple imprisonment for 3 years, and fine | do. |
| 130 | Aiding escape of, rescuing, or harbouring such Prisoner, or offering any resistance to the re-capture of such Prisoner. | do. | do. | Not bailable. | Transportation for life, or imprisonment of either description for 10 years, and fine. | do. |

## CHAPTER VII.—OFFENCES RELATING TO THE ARMY AND NAVY.

| 1 Section. | 2. Offence. | 3. Whether the Police may arrest without warrant or not. | 4. Whether a warrant or a summons shall ordinarily issue in the first instance | 5. Whether bailable or not. | 6. Punishment under the Indian Penal Code. | 7. By what Court triable. |
|---|---|---|---|---|---|---|
| 131 | Abetting mutiny or attempting to seduce an Officer, Soldier, or Sailor from his allegiance or duty. | May arrest without warrant. | Warrant. | Not bailable. | Transportation for life, or imprisonment of either description for 10 years, and fine. | Court of Session |
| 132 | Abetment of mutiny, if mutiny is committed in consequence thereof. | do. | do. | do. | Death, or transportation for life, or imprisonment of either description for 10 years, and fine. | do. |
| 133 | Abetment of an assault by an Officer, Soldier, or Sailor, on his superior Officer when in the execution of his office. | do. | do. | do. | Imprisonment of either description for 3 years, and fine. | do. |
| 134 | Abetment of such assault, if the assault is committed. | do. | do. | do. | Imprisonment of either description for 7 years, and fine. | do. |
| 135 | Abetment of the desertion of an Officer, Soldier, or Sailor. | do. | do. | Bailable. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District |
| 136 | Harbouring such an Officer, Soldier, or Sailor who has deserted | do. | do. | do. | do. | do. |
| 137 | Deserter concealed on board merchant vessel, through negligence of master or person in charge thereof. | Shall not arrest without warrant. | Summons. | do. | Fine of 500 Rs. | do. |
| 138 | Abetment of act of insubordination by an Officer, Soldier, or Sailor, if the offence be committed in consequence | May arrest without warrant. | Warrant. | do. | Imprisonment of either description for 6 months, or fine, or both. | do. |
| 139 | Wearing the dress or carrying any token used by a Soldier, with intent that it may be believed that he is such a Soldier | do. | Summons. | do. | Imprisonment of either description for 3 months, or fine of 500 Rs., or both. | Any Magistrate. |

## CHAPTER VIII.—OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

| | | | | | | |
|---|---|---|---|---|---|---|
| 143 | Being a member of an unlawful assembly. | May arrest without warrant | Summons. | Bailable. | Imprisonment of either description for 6 months, or fine, or both. | Any Magistrate. |
| 144 | Joining an unlawful assembly armed with any deadly weapon. | do. | Warrant. | do. | Imprisonment of either description for 2 years, or fine, or both. | do. |
| 145 | Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse. | do. | do. | do. | do. | do. |

| | | | | | | |
|---|---|---|---|---|---|---|
| 147 | Rioting. | do. | do. | do. | do. | do. |
| 148 | Rioting armed with a deadly weapon. | do. | do. | do. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session or Magistrate of the District. |
| 149 | If an offence be committed by any member of an unlawful assembly, every other member of such assembly shall be guilty of the offence. | According as arrest may be made without warrant for the offence, or not. | According as a warrant or summons may issue for the offence. | According as the offence is bailable or not. | The same as for the offence. | By the Court by which the offence is triable. |
| 150 | Hiring, engaging, or employing persons to take part in an unlawful assembly. | May arrest without warrant. | According to the offence committed by the person hired, engaged, or employed. | do. | The same as for a member of such assembly, and for any offence committed by any member of such assembly. | do. |
| 151 | Knowingly joining or continuing in any assembly of five or more persons after it has been commanded to disperse. | do. | Summons. | Bailable. | Imprisonment of either description for 6 months, or fine, or both. | Any Magistrate. |
| 152 | Assaulting or obstructing public servant when suppressing riot, &c. | do. | Warrant. | do. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session or Magistrate of the District. |
| 153 | Wantonly giving provocation with intent to cause riot, if rioting be committed. | do. | do. | do. | Imprisonment of either description for 1 year, or fine, or both. | Any Magistrate. |
| | If not committed. | do. | Summons. | do. | Imprisonment of either description for 6 months, or fine, or both. | do. |
| 154 | Owner or occupier of land not giving information of riot, &c. | Shall not arrest without warrant. | do. | do. | Fine of 1,000 Rupees. | Magistrate of the District or Subordinate Magistrate of 1st Class. |
| 155 | Person for whose benefit, or on whose behalf a riot takes place, not using all lawful means to prevent it. | do. | do. | do. | Fine. | do. |
| 156 | Agent of owner or occupier, for whose benefit a riot is committed, not using all lawful means to prevent it. | do. | do. | do. | do. | do. |
| 157 | Harbouring persons hired for an unlawful assembly. | May arrest without warrant. | do. | do. | Imprisonment of either description for 6 months, or fine, or both. | do. |
| 158 | Being hired to take part in an unlawful assembly or riot. | do. | do. | do. | do. | do. |
| | Or to go armed. | do. | Warrant. | do. | Imprisonment of either description for 2 years, or fine, or both. | do. |
| 160 | Committing affray. | Shall not arrest without warrant. | Summons. | do. | Imprisonment of either description for 1 month, or fine of 100 Rs., or both. | Any Magistrate. |

## CHAPTER IX.—OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

| 1 | 2. | 3. | 4. | 5. | 6. | 7. |
|---|---|---|---|---|---|---|
| Section. | Offence. | Whether the Police may arrest without warrant or not. | Whether a warrant or a summons shall ordinarily issue in the first instance. | Whether bailable or not. | Punishment under the Indian Penal Code. | By what Court triable. |
| 161 | Being or expecting to be a public servant, and taking a gratification other than legal remuneration in respect of an official act. | Shall not arrest without warrant. | Summons. | Bailable. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session or Magistrate of the District. |
| 162 | Taking a gratification in order, by corrupt or illegal means, to influence a public servant. | do. | do. | do. | do. | do. |
| 163 | Taking a gratification for the exercise of personal influence with a public servant. | do. | do. | do. | Simple imprisonment for 1 year, or fine, or both. | Magistrate of the District. |
| 164 | Abetment by public servant of the offences defined in the last two preceding clauses with reference to himself. | do. | do. | do. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session or Magistrate of the District. |
| 165 | Public servant obtaining any valuable thing, without consideration, from a person concerned in any proceeding or business transacted by such public servant. | do. | do. | do. | Simple imprisonment for 2 years, or fine, or both. | Magistrate of the District or Subordinate Magistrate of 1st class. |
| 166 | Public servant disobeying a direction of the law with intent to cause injury to any person. | do. | do. | do. | Simple imprisonment for 1 year, or fine, or both. | do. |
| 167 | Public servant framing an incorrect document with intent to cause injury. | do. | do. | do. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session or Magistrate of the District. |
| 168 | Public servant unlawfully engaging in trade. | do. | do. | do. | Simple imprisonment for one year, or fine, or both. | Magistrate of the District. |
| 169 | Public servant unlawfully buying or bidding for property. | do. | do. | do. | Simple imprisonment for 2 years, or fine, or both, & confiscation of property, if purchased. | do. |
| 170 | Personating a public servant. | May arrest without warrant. | Warrant. | do. | Imprisonment of either description for 2 years, or fine, or both. | Any Magistrate. |
| 171 | Wearing garb or carrying token used by public servant with fraudulent intent. | do. | Summons. | do. | Imprisonment of either description for 3 months, or fine of 200 Rs., or both. | do. |

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|---|---|---|---|---|---|---|
| 172 | Absconding to avoid service of summons or other proceeding from a public servant. | Shall not without warrant | arrest | Summons | Bailable | Simple imprisonment for 1 month, or fine of 500 Rs., or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class |
| | If summons or notice require attendance in person, &c., in a Court of Justice. | do | | do | do | Simple imprisonment for 6 months, or fine of 1,000 Rs or both | do |
| 173 | Preventing the service or the affixing of any summons or notice, or the removal of it when it has been affixed, or preventing a proclamation | do | | do | do | Simple imprisonment for 1 month, or fine of 500 Rs, or both | do. |
| | If summons, &c, require attendance in person, &c in a Court of Justice | do | | do | do. | Simple imprisonment for 6 months, or fine of 1,000 Rs., or both | do |
| 174 | Not obeying a legal order to attend at a certain place in person or by agent, or departing therefrom without authority | do | | do. | do. | Simple imprisonment for 1 month, or fine of 500 Rs., or both. | do |
| | If the order require personal attendance, &c., in a Court of Justice | do | | do | do. | Simple imprisonment for 6 months, or fine of 1 000 Rs, or both | do |
| 175 | Intentionally omitting to produce a document to a public servant by a person legally bound to produce or deliver such document. | do. | | do | do. | Simple imprisonment for 1 month, or fine of 500 Rs., or both. | Court in which the offence is committed, subject to the provisions of Chapter X. of this Code, or if not committed in a Court, the Magistrate of the District, or Subordinate Magistrate of 1st Class |
| | If the document is required to be produced in or delivered to a Court of Justice | do | | do. | do | Simple imprisonment for 6 months, or fine of 1,000 Rs, or both. | do |
| 176 | Intentionally omitting to give notice or information to a public servant by a person legally bound to give such notice or information | do. | | do | do | Simple imprisonment for 1 month, or fine of 500 Rs, or both. | Magistrate of the District. |
| | If the notice or information required respects the commission of an offence, &c | do. | | do. | do | Simple imprisonment for 6 months, or fine of 1,000 Rs, or both. | do |
| 177 | Knowingly furnishing false information to a public servant | do. | | do | do | Simple imprisonment for 6 months, or fine of 1,000 Rs., or both | Magistrate of the District, or Subordinate Magistrate of 1st Class |
| | If the information required respects the commission of an offence, &c | do | | do. | do. | Imprisonment of either description for 2 years, or fine, or both. | do |

## CHAPTER X.—CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS —*(Continued)*

| 1. Section | 2. Offence | 3 Whether the Police may arrest without warrant or not. | 4 Whether a warrant or a summons shall ordinarily issue in the first instance | 5. Whether bailable or not | 6 Punishment under the Indian Penal Code | 7 By what Court triable |
|---|---|---|---|---|---|---|
| 178 | Refusing oath when duly required to take oath by a public servant | Shall not arrest without warrant | Summons. | Bailable | Simple imprisonment for 6 months, or fine of 1,000 Rs., or both | Court in which the offence is committed, subject to the provisions of Chapter X of this Code, or if not committed in a Court, the Magistrate of the District, or Subordinate Magistrate of 1st Class |
| 179 | Being legally bound to state the truth, and refusing to answer questions | do. | do. | do | do | do |
| 180 | Refusing to sign a statement made to a public servant when legally required to do so | do | do | do | Simple imprisonment for 3 months, or fine of 500 Rs, or both. | do |
| 181 | Knowingly stating to a public servant on oath as true that which is false | do. | Warrant. | do. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session or Magistrate of the District |
| 182 | Giving false information to a public servant in order to cause him to use his lawful power to the injury or annoyance of any person | do. | Summons | do. | Imprisonment of either description for 6 months, or fine of 1,000 Rs, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class |
| 183 | Resistance to the taking of property by the lawful authority of a public servant | do. | do | do | do | do |
| 184 | Obstructing sale of property offered for sale by authority of a public servant | do | do | do | Imprisonment of either description for 1 month, or fine of 500 Rs., or both. | do |
| 185 | Bidding, by a person under a legal incapacity to purchase it, for property at a lawfully authorized sale, or bidding without intending to perform the obligations incurred thereby | do | do | do | Imprisonment of either description for 1 month, or fine of 200 Rs, or both | do |

| | | | | | | |
|---|---|---|---|---|---|---|
| 186 | Obstructing public servant in discharge of his public functions. | Shall not arrest without warrant. | Summons. | Bailable. | Imprisonment of either description for 3 months, or fine of 500 Rs., or both. | do. |
| 187 | Omission to assist public servant, when bound by law to give such assistance. | do. | do. | do. | Simple imprisonment for 1 month, or fine of 200 Rs., or both. | do. |
| | Wilfully neglecting to aid a public servant, who demands aid in the execution of process, the prevention of offences, &c. | do. | do. | do. | Simple imprisonment for 6 months, or fine of 500 Rs., or both. | do. |
| 188 | Disobedience to an order lawfully promulgated by a public servant if such disobedience causes obstruction or annoyance or injury to persons lawfully employed. | do. | do. | do. | Simple imprisonment for 1 month, or fine of 200 Rs., or both. | do. |
| | If such disobedience causes danger to human life, health, or safety, &c. | do. | do. | do. | Imprisonment of either description for 6 months, or fine of 1,000 Rs., or both. | do. |
| 189 | Threatening a public servant with injury to him, or one in whom he is interested, to induce him to do or forbear to do any official act. | do. | do. | do. | Imprisonment of either description for 2 years, or fine, or both. | do. |
| 190 | Threatening any person to induce him to refrain from making a legal application for protection from injury. | do. | do. | do. | Imprisonment of either description for 1 year, or fine, or both. | do. |

## CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

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| 193 | Giving or fabricating false evidence in a judicial proceeding. | Shall not arrest without warrant. | Warrant. | Bailable. | Imprisonment of either description for 7 years and fine. | Court of Session. |
| | Giving or fabricating false evidence in any other case. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | do. |
| 194 | Giving or fabricating false evidence with intent to cause any person to be convicted of a capital offence. | do. | do. | Not bailable. | Transportation for life, or rigorous imprisonment for 10 years and fine. | do. |
| | If innocent person be thereby convicted and executed. | do. | do. | do. | Death or as above. | do. |
| 195 | Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation, or imprisonment for more than seven years. | do. | do. | do. | The same as for the offence. | do. |
| 196 | Using in a judicial proceeding evidence known to be false or fabricated. | do. | do. | According as the offence of giving such evidence is bailable or not. | The same as for giving or fabricating false evidence. | do. |
| 197 | Knowingly issuing or signing a false certificate relating to any fact of which such certificate is by law admissible in evidence. | do. | do. | Bailable. | The same as for giving false evidence. | do. |
| 198 | Using as a true certificate one known to be false in a material point. | do. | do. | do. | do. | do. |

## CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.—(*Continued*)

| Section | 2<br>Offence | 3<br>Whether the Police may arrest without warrant or not. | 4<br>Whether a warrant or summons shall ordinarily issue in the first instance | 5<br>Whether Bailable or not | 6<br>Punishment under the Indian Penal Code | 7<br>By what Court triable |
|---|---|---|---|---|---|---|
| 199 | False statement made in any declaration which is by law received as evidence | Shall not arrest without warrant | Warrant | Bailable. | The same as for giving false evidence | Court of Session |
| 200 | Using as true any such declaration known it be false | do | do | do | do | do |
| 201 | Causing disappearance of evidence of an offence committed or giving false information touching it to screen the offender if a capital offence | do | do | do | Imprisonment of either description for 7 years and fine | do |
| | If punishable with transportation, or imprisonment for 10 years | do | do | do | Imprisonment of either description for 3 years and fine | do |
| | If punishable with less than 10 years imprisonment | do | do | do | Imprisonment for ¼th of the longest term and of the description provided for the offence or fine, or both. | By the Court by which the offence is triable |
| 202 | Intentional omission to give information of an offence by a person legally bound to inform | do | Summons | do | Imprisonment of either description for 6 months or fine or both. | Magistrate of the District |
| 203 | Giving false information respecting an offence committed | do | Warrant | do | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District |
| 204 | Secreting or destroying any document to prevent its production as evidence | do | do | do | do | do |
| 205 | False personation for the purpose of any act or proceeding in a suit or criminal prosecution, or for becoming bail or security | do | do | do | Imprisonment of either description for 3 years, or fine, or both | Court of Session. |
| 206 | Fraudulent removal or concealment &c., of property to prevent its seizure as a forfeiture, or in satisfaction of a fine under sentence or in execution of a decree. | do | do | do | Imprisonment of either description for 2 years, or fine, or both | Magistrate of the District or Subordinate Magistrate of 1st Class. |
| 207 | Claiming property without right or practising deception touching any right to it to prevent its being taken as a forfeiture or in satisfaction of a fine under sentence, or in execution of a decree | do | do | do | do | do. |
| 208 | Fraudulently suffering a decree to pass for a sum not due or suffering decree to be executed after it has been satisfied | do | do | do | do | Magistrate of the District |
| 209 | False claim in a Court of Justice | do | do | do. | Imprisonment of either description for 2 years and fine | do. |

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| 210 | Fraudulently obtaining a decree for a sum not due, or causing a decree to be executed after it has been satisfied. | do. | do. | do. | Imprisonment of either description for 2 years or fine, or both. | do. |
| 211 | False charge of offence made with intent to injure. | do. | do. | do. | do. | do. |
| | If offence charged be capital or punishable with transportation for life, or imprisonment for 7 years, or upwards. | do. | do. | do. | Imprisonment of either description for 7 years and fine. | Court of Session. |
| 212 | Harbouring an offender if the offence be capital. | May arrest without warrant. | do. | do. | Imprisonment of either description for 5 years and fine. | do. |
| | If punishable with transportation for life, or with imprisonment for 10 years. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | do. |
| | If punishable with imprisonment for 1 year, and not for 10 years. | do. | do. | do. | Imprisonment for ½th of the longest term and of the description provided for the offence, or fine, or both. | By the Court by which the offence is triable. |
| 213 | Taking gift, &c. to screen an offender from punishment, if the offence be capital. | Shall not arrest without warrant. | do. | do. | Imprisonment of either description for 7 years and fine. | Court of Session. |
| | If punishable with transportation for life, or with imprisonment for 10 years. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | do. |
| | If with imprisonment for less than 10 years. | do. | do. | do. | Imprisonment for ½th of the longest term and of the description provided for the offence, or fine, or both. | By the Court by which the offence is triable. |
| 214 | Gift made to cause restoration of property in consideration of screening offender if the offence be capital. | do. | do. | do. | Imprisonment of either description for 7 years and fine. | Court of Session. |
| | If punishable with transportation for life, or with imprisonment for 10 years. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | do. |
| | If with imprisonment for less than 10 years. | do. | do. | do. | Imprisonment for ½th of the longest term and of the description provided for the offence, or fine, or both. | By the Court by which the offence is triable. |
| 215 | Taking gift to help to recover moveable property, of which a person has been deprived by an offence, without causing apprehension of offender. | do. | do. | do. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District. |
| 216 | Harbouring an offender who has escaped from custody, or whose apprehension has been ordered, if the offence be capital | May arrest without warrant. | do. | do. | Imprisonment of either description for 7 years and fine. | Court of Session. |
| | If punishable with transportation for life, or with imprisonment for 10 years. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | do. |
| | If with imprisonment for 1 year and not for 10 years. | do. | do. | do. | Imprisonment for ½th of the longest term and of the description provided for the offence, or fine, or both. | By the Court by which the offence is triable. |
| 217 | Public servant disobeying a direction of law with intent to save persons from punishment, or property from forfeiture. | Shall not arrest without warrant. | Summons. | do. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class only. |

## CHAPTER XI.—FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.—*(Continued.)*

| 1. Section. | 2. Offence. | 3. Whether the Police may arrest without warrant or not. | 4. Whether a warrant or a summons shall ordinarily issue in the first instance. | 5. Whether bailable or not | 6. Punishment under the Indian Penal Code. | 7. By what Court triable. |
|---|---|---|---|---|---|---|
| 218 | Public servant framing an incorrect record or writing with intent to save person from punishment, or property from forfeiture. | Shall not arrest without warrant. | Warrant. | Bailable. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session. |
| 219 | Public servant in a judicial proceeding making or pronouncing an order, report, verdict, or decision which he knows to be contrary to law. | do. | do. | do. | Imprisonment of either description for 7 years, or fine, or both. | do. |
| 220 | Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law. | do. | do. | do. | do. | do. |
| 221 | Intentional omission to apprehend on the part of a public servant bound by law to apprehend an offender, if the offence be capital. | do. | do. | do. | Imprisonment of either description for 7 years, with or without fine. | do. |
| | If punishable with transportation for life or imprisonment for 10 years. | do. | do. | do. | Imprisonment of either description for 3 years, with or without fine. | do. |
| | If with imprisonment for less than 10 years. | do. | do. | do. | Imprisonment of either description for 2 years, with or without fine. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 222 | Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice, if under sentence of death. | do. | do. | Not bailable. | Transportation for life, or imprisonment of either description for 14 years with or without fine. | Court of Session. |
| | If under sentence of transportation for life, or imprisonment or penal servitude for 10 years or upwards. | do. | do. | do. | Imprisonment of either description for 10 years with or without fine. | do. |
| | If under sentence of imprisonment for less than 10 years. | do. | do. | Bailable. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session or Magistrate of the District. |
| 223 | Escape from confinement negligently suffered by a public servant. | do. | Summons. | do. | Simple imprisonment for 2 years, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class |
| 224 | Resistance or obstruction by a person to his lawful apprehension. | May arrest without warrant. | Warrant. | do. | Imprisonment of either description for 2 years, or fine, or both. | do. |

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| 225 | Resistance or obstruction to the lawful apprehension of another person, or rescuing him from lawful custody. | do. | do. | do. | do. | do. |
| | If charged with an offence punishable with transportation for life or imprisonment for 10 years. | do. | do. | Not bailable. | Imprisonment of either description for 3 years and fine. | Court of Session or Magistrate of the District. |
| | If charged with a capital offence. | do. | do. | do. | Imprisonment of either description for 7 years and fine. | Court of Session. |
| | If the person is sentenced to transportation for life, or to transportation, penal servitude, or imprisonment for 10 years or upwards. | do. | do. | do. | do. | do. |
| | If under sentence of death. | do. | do. | do. | Transportation for life, or imprisonment of either description for 10 years and fine. | do. |
| 226 | Unlawful return from transportation. | do. | do. | do. | Transportation for life, and fine and rigorous imprisonment for 3 years before transportation. | do. |
| 227 | Violation of condition of remission of punishment. | Shall not arrest without warrant. | Summons. | do. | Punishment of original sentence, or if part of the punishment has been undergone, the residue. | By the Court by which the original offence was triable. |
| 228 | Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding. | do. | do. | Bailable. | Simple imprisonment for 6 months, or fine of 1000 Rupees or both. | Court in which the offence is committed, subject to the provisions contained in Chapter X. of this Code. |
| 229 | Personation of a juror or assessor. | do. | do | do. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District. |

## CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

| | | | | | | |
|---|---|---|---|---|---|---|
| 231 | Counterfeiting or performing any part of the process of counterfeiting Coin. | May arrest without warrant. | Warrant. | Not bailable. | Imprisonment of either description for 7 years and fine. | Court of Session. |
| 232 | Counterfeiting or performing any part of the process of counterfeiting the Queen's Coin. | do. | do. | do. | Imprisonment of either description for 10 years and fine. | do. |
| 233 | Making, buying, or selling instrument for the purpose of counterfeiting Coin. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | do. |
| 234 | Making, buying, or selling instrument for the purpose of counterfeiting the Queen's Coin. | do. | do. | do. | Imprisonment of either description for 7 years and fine. | do. |
| 235 | Possession of instrument or material for the purpose of using the same for counterfeiting Coin. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | do. |
| | If Queen's Coin. | do. | do. | do. | Imprisonment of either description for 10 years and fine. | do. |

## CHAPTER XII.—OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.—*(Continued.)*

| 1. Section. | 2 Offence. | 3. Whether the Police may arrest without warrant or not. | 4. Whether a warrant or a summons shall ordinarily issue in the first instance. | 5. Whether bailable or not. | 6. Punishment under the Indian Penal Code. | 7. By what Court triable. |
|---|---|---|---|---|---|---|
| 236 | Abetting in India the counterfeiting out of British India of Coin. | May arrest without warrant. | Warrant. | Not bailable. | The punishment provided for abetting the counterfeiting of such Coin within British India. | do. |
| 237 | Import or Export of counterfeit Coin knowing the same to be counterfeit. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | do. |
| 238 | Import or Export of counterfeits of the Queen's Coin, knowing the same to be counterfeit. | do. | do. | do. | Transportation for life, or imprisonment of either description for 10 years and fine. | do. |
| 239 | Having any counterfeit Coin known to be such when it came into possession, and delivering, &c. the same to any person. | do. | do. | do. | Imprisonment of either description for 5 years and fine. | do. |
| 240 | The same with respect to the Queen's Coin. | do. | do. | do. | Imprisonment of either description for 10 years and fine. | do. |
| 241 | Knowingly delivering to another any counterfeit Coin as genuine, which, when first possessed, the deliverer did not know to be counterfeit. | do. | do. | do. | Imprisonment of either description for 2 years or fine of ten times the value of the Coin counterfeited, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 242 | Possession of counterfeit Coin by a person who knew it to be counterfeit when he became possessed thereof. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | Court of Session. |
| 243 | Possession of Queen's Coin by a person who knew it to be counterfeit when he became possessed thereof. | do. | do. | do. | Imprisonment of either description for 7 years and fine. | do. |
| 244 | Persons employed in a Mint causing coin to be of a different weight or composition from that fixed by law. | do. | do. | do. | do. | do. |
| 245 | Unlawfully taking from a Mint any Coining instrument. | do. | do. | do. | do. | do. |
| 246 | Fraudulently diminishing the weight or altering the composition of any Coin. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | do. |
| 247 | Fraudulently diminishing the weight or altering the composition of the Queen's Coin. | do. | do. | do. | Imprisonment of either description for 7 years and fine. | do. |
| 248 | Altering appearance of any Coin with intent that it shall pass as a Coin of a different description. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | do. |

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| 249 | Altering appearance of the Queen's Coin with intent that it shall pass as a Coin of a different description. | do. | do. | do. | Imprisonment of either description for 7 years and fine. | do. |
| 250 | Delivery to another of Coin possessed with the knowledge that it is altered. | do. | do. | do. | Imprisonment of either description for 5 years and fine. | do. |
| 251 | Delivery of Queen's Coin possessed with the knowledge that it is altered. | do. | do. | do. | Imprisonment of either description for 10 years and fine. | do. |
| 252 | Possession of altered Coin by a person who knew it to be altered when he became possessed thereof. | do. | do. | do. | Imprisonment of either description for 3 years and fine. | do. |
| 253 | Possession of Queen's Coin by a person who knew it to be altered when he became possessed thereof. | do. | do. | do. | Imprisonment of either description for 5 years and fine. | do. |
| 254 | Delivery to another of Coin as genuine, which when first possessed, the deliverer did not know to be altered. | do. | do. | do. | Imprisonment of either description for 2 years, or fine of ten times the value of the Coin. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 255 | Counterfeiting a Government Stamp. | do. | do. | Bailable. | Imprisonment of either description for 10 years and fine. | Court of Session. |
| 256 | Having possession of an instrument or material for the purpose of counterfeiting a Government Stamp. | do. | do. | do. | Imprisonment of either description for 7 years and fine. | do. |
| 257 | Making, buying, or selling instrument for the purpose of counterfeiting a Government Stamp. | do. | do. | do. | do. | do. |
| 258 | Sale of counterfeit Government Stamp. | do. | do. | do. | do. | do. |
| 259 | Having possession of a counterfeit Government Stamp. | do. | do. | do. | do. | do. |
| 260 | Using as genuine a Government Stamp known to be counterfeit. | Shall not arrest without warrant. | do. | do. | Imprisonment of either description for 7 years, or fine, or both. | do. |
| 261 | Effacing any writing from a substance bearing a Government Stamp, or removing from a document a Stamp used for it with intent to cause wrongful loss to Government. | do. | do. | do. | Imprisonment of either description for 3 years, or fine, or both. | do. |
| 262 | Using a Government Stamp known to have been before used. | do. | do. | do. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 263 | Erasure of mark denoting that Stamp has been used. | do. | do. | do. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session. |

## CHAPTER XIII.—OFFENCES RELATING TO WEIGHTS AND MEASURES.

| 1. Section | 2. Offence. | 3. Whether the Police may arrest without warrant or not. | 4 Whether a warrant or a summons shall ordinarily issue in the first instance. | 5. Whether bailable or not | 6 Punishment under the Indian Penal Code. | 7 By what Court triable. |
|---|---|---|---|---|---|---|
| 264 | Fraudulent use of false instrument for weighing. | Shall not arrest without warrant. | Summons. | Bailable. | Imprisonment of either description for 1 year, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 265 | Fraudulent use of false weight or measure. | do. | do. | do. | do. | do. |
| 266 | Being in possession of false weights or measures for fraudulent use | do. | do. | do. | do. | do. |
| 267 | Making or selling false weights or measures for fraudulent use. | do. | do. | do. | do | do. |

## CHAPTER XIV.—OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

| | | | | | | |
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| 269 | Negligently doing any act known to be likely to spread infection of any disease dangerous to life. | May arrest without warrant. | Summons. | Bailable. | Imprisonment of either description for 6 months, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 270 | Malignantly doing any act known to be likely to spread infection of any disease dangerous to life. | do. | do | do. | Imprisonment of either description for 2 years, or fine, or both. | do. |
| 271 | Knowingly disobeying any quarantine rule. | Shall not arrest without warrant | do. | do. | Imprisonment of either description for 6 months, or fine, or both. | do. |
| 272 | Adulterating food or drink for man intended for sale so as to make the same noxious. | do. | do. | do. | Imprisonment of either description for 6 months, or fine of 1,000 Rs. or both. | do. |
| 273 | Selling any food or drink as food and drink for man, knowing the same to be noxious | do. | do. | do. | do. | do. |
| 274 | Adulterating any drug or medical preparation intended for sale so as to lessen its efficacy, or to change its operation, or to make it noxious. | do. | do- | do. | do. | do |

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| 275 | Offering for sale or issuing from a dispensary drug or medical preparation, known to have been adulterated. | do. | do. | do. | do. | do. |
| 276 | Knowingly selling or issuing from a dispensary any drug or medical preparation, as a different drug or medical preparation. | do. | do. | do. | do. | do. |
| 277 | Defiling the water of a public spring or reservoir. | May arrest without warrant | do. | do. | Imprisonment of either description for 3 months, or fine of 500 Rs., or both. | do. |
| 278 | Making atmosphere noxious to health. | Shall not arrest without warrant. | do. | do. | Fine of 500 Rs. | do. |
| 279 | Driving or riding on a public way so rashly or negligently as to endanger human life, &c. | May arrest without warrant. | do. | do. | Imprisonment of either description for 6 months, or fine of 1,000 Rs., or both. | do. |
| 280 | Navigating any vessel so rashly or negligently as to endanger human life, &c. | do. | do. | do. | do. | do. |
| 281 | Exhibition of a false light, mark, or buoy. | do. | Warrant. | do. | Imprisonment of either description for 7 years, or fine, or both. | Court of Session. |
| 282 | Conveying for hire any person by water in a vessel in such a state, or so loaded, as to endanger his life. | do. | Summons. | do. | Imprisonment of either description for 6 months, or fine of 1,000 Rs., or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 283 | Causing danger, obstruction, or injury in any public way or line of navigation. | do. | do. | do. | Fine of 200 Rs. | do. |
| 284 | Dealing with any poisonous substance so as to endanger human life &c. | Shall not arrest without warrant. | do. | do. | Imprisonment of either description for 6 months, or fine of 1,000 Rs., or both. | do. |
| 285 | Dealing with fire or any combustible matter so as to endanger human life &c. | May arrest without warrant. | do. | do. | do. | do. |
| 286 | So dealing with any explosive substance. | do. | do. | do. | do. | do. |
| 287 | So dealing with any machinery. | Shall not arrest without warrant | do. | do. | do. | do. |
| 288 | A person omitting to guard against probable danger to human life, by the fall of any building, over which he has a right entitling him to pull it down or repair it. | May arrest without warrant. | do. | do. | do. | do. |
| 289 | A person omitting to take order with any animal in his possession, so as to guard against danger to human life, or of grievous hurt from such animal. | do. | do. | do. | do. | do. |
| 290 | Committing a public nuisance. | Shall not arrest without warrant. | do. | do. | Fine of 200 Rs. | do. |
| 291 | Continuance of nuisance after injunction to discontinue. | May arrest without warrant. | do. | do. | Simple imprisonment for 6 months, or fine, or both. | do. |
| 292 | Sale, &c., of obscene books, &c. | do. | Warrant. | do. | Imprisonment of either description for 3 months, or fine, or both. | do. |
| 293 | Having in possession obscene book, &c., for sale or exhibition | do. | do. | do. | do. | do. |
| 294 | Obscene songs. | do. | do. | do. | do. | do. |

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## CHAPTER XV.—OFFENCES RELATING TO RELIGION.

| 1. Section. | 2. Offence. | 3. Whether the Police may arrest without warrant or not. | 4. Whether a warrant or a summons shall ordinarily issue in the first instance. | 5. Whether bailable or not. | 6. Punishment under the Indian Penal Code. | 7 By what Court triable. |
|---|---|---|---|---|---|---|
| 295 | Destroying, damaging, or defiling a place of worship or sacred object with intent to insult the religion of any class of persons. | May arrest without warrant. | Summons. | Bailable. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District. |
| 296 | Causing a disturbance to an assembly engaged in religious worship | do. | do. | do. | Imprisonment of either description for 1 year, or fine, or both. | do. |
| 297 | Trespassing in a place of worship or sepulture, disturbing funeral with intention to wound the feelings or to insult the religion of any person, or offering indignity to a human corpse. | do. | do. | do. | do. | do. |
| 298 | Uttering any word or making any sound in the hearing, or making any gesture, or placing any object in the sight of any person, with intention to wound his religious feelings. | Shall not arrest without warrant. | do. | do. | do. | do. |

## CHAPTER XVI.—OFFENCES AFFECTING THE HUMAN BODY.

### *Offences Affecting Life.*

| | | | | | | |
|---|---|---|---|---|---|---|
| 302 | Murder. | May arrest without warrant. | Warrant. | Not bailable. | Death, transportation for life, and fine. | Court of Session. |
| 303 | Murder by a person under sentence of transportation for life. | do. | do. | do. | Death. | do. |
| 304 | Culpable homicide not amounting to murder if act by which the death is caused is done with intention of causing death, &c. | do. | do. | do. | Transportation for life, or imprisonment of either description for 10 years, and fine. | do. |
| | If act is done with knowledge that it is likely to cause death but without any intention to cause death, &c. | do. | do. | do. | Imprisonment of either description for 10 years, or fine, or both. | do. |
| 305 | Abetment of suicide committed by a child, or insane or delirious person, or an idiot, or a person intoxicated. | do. | do. | do. | Death, or transportation for life, or imprisonment for 10 years, and fine. | do. |

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| 306 | Abetting the commission of suicide. | do. | do. | do. | Imprisonment of either description for 10 years, and fine. | do. |
| 307 | Attempt to murder. | do. | do. | do. | do. | do. |
| | If such act cause hurt to any person. | do. | do. | do. | Transportation for life or as above. | do. |
| 308 | Attempt to commit culpable homicide. | do. | do. | Bailable. | Imprisonment of either description for 3 years, or fine, or both. | do. |
| | If such act cause hurt to any person. | do. | do. | do. | Imprisonment of either description for 7 years, or fine, or both. | do. |
| 309 | Attempt to commit suicide. | do. | do. | do. | Simple imprisonment for 1 year and fine. | Magistrate of the District. |
| 311 | Being a thug. | do. | do. | Not bailable. | Transportation for life and fine. | Court of Session. |

## *Of the causing of Miscarriage; of injuries to unborn children; of the exposure of Infants; and of the concealment of births.*

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|---|---|---|---|---|---|---|
| 312 | Causing miscarriage. | May not arrest without warrant. | Warrant. | Bailable. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session. |
| | If the woman be quick with child. | do. | do. | do. | Imprisonment of either description for 7 years and fine. | do. |
| 313 | Causing miscarriage without woman's consent. | do. | do. | Not bailable. | Transportation for life or imprisonment of either description for 10 years, and fine. | do. |
| 314 | Death caused by an act done with intent to cause miscarriage. | do. | do. | do. | Imprisonment of either description for 10 years and fine. | do. |
| | If act done without woman's consent. | do. | do. | do. | Transportation for life or as above. | do. |
| 315 | Act done with intent to prevent a child being born alive, or to cause it to die after its birth. | do. | do | do. | Imprisonment of either description for 10 years, or fine, or both. | do. |
| 316 | Causing death of a quick unborn child by an act amounting to culpable homicide. | do. | do. | do. | Imprisonment of either description for 10 years and fine. | do. |
| 317 | Exposure of a child under 12 years by parent or person having care of it, with intention of wholly abandoning it. | May arrest without warrant. | do. | Bailable. | Imprisonment of either description for 7 years, or fine, or both. | do. |
| 318 | Concealment of birth by secret disposal of dead body. | do. | do. | do. | Imprisonment of either description for 2 years, or fine, or both. | do. |

## *Of Hurt.*

| | | | | | | |
|---|---|---|---|---|---|---|
| 323 | Voluntarily causing hurt. | May not arrest without warrant. | Summons. | Bailable. | Imprisonment of either description for 1 year, or fine of 1,000 Rupees, or both. | Any Magistrate. |
| 324 | Voluntarily causing hurt by dangerous weapons or means. | May arrest without warrant. | do. | do. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class. |

## CHAPTER XVI—OFFENCES AFFECTING THE HUMAN BODY—(Continued)

| 1 Section | 2 Offence | 3 Where the Police may arrest without warrant or not. | 4 Whether a warrant or a summons shall ordinarily issue in the first instance. | 5 Whether bailable or not | 6 Punishment under the Indian Penal Code | 7 By what Court triable |
|---|---|---|---|---|---|---|
| 325 | Voluntarily causing grievous hurt. | May arrest without warrant | Summons | Bailable | Imprisonment of either description for 7 years and fine | Court of Session |
| 326 | Voluntarily causing grievous hurt by dangerous weapons or means | do | do | Not bailable | Transportation for life or imprisonment of either description for 10 years, and fine | do |
| 327 | Voluntarily causing hurt to extort property or a valuable security, or to constrain to do an illegal act which may facilitate the commission of an offence | do | Warrant. | do | Imprisonment of either description for 10 years and fine | do |
| 328 | Administering stupefying drug with intent to cause hurt | do | do | do | do | do. |
| 329 | Voluntarily causing grievous hurt to extort property or a valuable security or to constrain to do an illegal act which may facilitate the commission of an offence | do | do | do | Transportation for life or imprisonment of either description for 10 years, and fine. | do |
| 330 | Voluntarily causing hurt to extort confession or information, or to compel restoration of property &c | do | do | Bailable | Imprisonment of either description for 7 years and fine | do. |
| 331 | Voluntarily causing grievous hurt to extort confession or information, or to compel restoration of property &c | do | do | Not bailable | Imprisonment of either description for 10 years and fine | do |
| 332 | Voluntarily causing hurt to deter public servant from his duty | do | do | Bailable | Imprisonment of either description for 3 years or fine, or both. | do |
| 333 | Voluntarily causing grievous hurt to deter public servant from his duty | do | do | Not bailable | Imprisonment of either description for 10 years and fine | do |
| 334 | Voluntarily causing hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation | do | Summons | Bailable. | Imprisonment of either description for 1 month, or fine of 500 Rs, or both. | Any Magistrate |
| 335 | Causing grievous hurt on grave and sudden provocation not intending to hurt any other than the person who gave the provocation | do | do | do | Imprisonment of either description for 4 years, or fine of 2,000 Rs., or both. | Court of Session or Magistrate of the District. |
| 336 | Doing any act which endangers human life or the personal safety of others | do | do. | do | Imprisonment of either description for 3 months, or fine of 250 Rs., or both | Any Magistrate |
| 337 | Causing hurt by an act which endangers human life, &c | do | do. | do | Imprisonment of either description for 6 months, or fine of 500 Rs., or both | Magistrate of the District or Subordinate Magistrate of 1st Class. |
| 338 | Causing grievous hurt by an act which endangers human life &c | do | do. | do. | Imprisonment of either description for 2 years, or fine of 1,000 Rs, or both. | do |

## *Of Wrongful Restraint and Wrongful Confinement.*

| | | | | | | |
|---|---|---|---|---|---|---|
| 341 | Wrongfully restraining any person. | May arrest. | Summons. | Bailable. | Simple imprisonment for 1 month, or fine of 500 Rs., or both. | Any Magistrate. |
| 342 | Wrongfully confining any person. | do. | do. | do. | Imprisonment of either description for 1 year, or fine of 1,000 Rs., or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 343 | Wrongfully confining for three or more days. | do. | do. | do. | Imprisonment of either description for 2 years, or fine, or both. | do. |
| 344 | Wrongfully confining for ten or more days. | do. | do. | do. | Imprisonment of either description for 3 years, and fine. | Court of Session or Magistrate of the District. |
| 345 | Keeping any person in wrongful confinement, knowing that a writ has been issued for his liberation. | May not arrest. | do. | do. | Imprisonment of either description for 2 years, in addition to imprisonment under any other Section. | Court of Session. |
| 346 | Wrongful confinement in secret. | May arrest. | do. | do. | do. | do. |
| 347 | Wrongful confinement for the purpose of extorting property, or constraining to an illegal act, &c. | do. | do. | do. | Imprisonment of either description for 3 years, and fine. | Court of Session or Magistrate of the District. |
| 348 | Wrongful confinement for the purpose of extorting confession or information, or of compelling restoration of property, &c. | do. | do. | do. | do. | do. |

## *Of Criminal Force and Assault.*

| | | | | | | |
|---|---|---|---|---|---|---|
| 352 | Assault or use of criminal force otherwise than on grave provocation. | Shall not arrest without warrant. | Summons. | Bailable. | Imprisonment of either description for 3 months, or fine of 500 Rs., or both. | Any Magistrate. |
| 353 | Assault or use of criminal force to deter a public servant from discharge of his duty. | May arrest without warrant. | Warrant. | do. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 354 | Assault or use of criminal force to a woman with intent to outrage her modesty. | do. | do. | do. | do. | do. |
| 355 | Assault or criminal force with intent to dishonor a person otherwise than on grave and sudden provocation. | Shall not arrest without warrant | Summons. | do. | do. | do. |
| 356 | Assault or criminal force in attempt to commit theft of property worn or carried by a person. | May arrest without warrant. | Warrant. | Not bailable. | do. | Any Magistrate. |
| 357 | Assault or use of criminal force in attempt wrongfully to confine a person. | do. | do. | Bailable. | Imprisonment of either description for 1 year, or fine of 1,000 Rs., or both. | do. |
| 358 | Assault or use of criminal force on grave and sudden provocation. | Shall not arrest without warrant. | Summons. | do. | Simple imprisonment for 1 month, or fine of 200 Rs., or both. | do. |

## CHAPTER XVI.—OF OFFENCES AFFECTING THE HUMAN BODY.—*(Continued.)*

### *Of Kidnapping, Forcible Abduction, Slavery, and forced Labor.*

| 1 Section | 2 Offence. | 3. Whether the Police may arrest without warrant or not. | 4. Whether a warrant or a summons shall ordinarily issue in the first instance | 5. Whether bailable or not. | 6. Punishment under the Indian Penal Code. | 7 By what Court triable. |
|---|---|---|---|---|---|---|
| 363 | Kidnapping. | May arrest without warrant | Warrant. | Not bailable | Imprisonment of either description for 7 years, and fine | Court of Session. |
| 364 | Kidnapping or abducting in order to murder. | do. | do. | do. | Transportation for life, or rigorous imprisonment for 10 years, and fine | do. |
| 365 | Kidnapping or abducting with intent secretly and wrongfully to confine a person | do. | do. | do. | Imprisonment of either description for 7 years, and fine | do. |
| 366 | Kidnapping or abducting a woman to compel her marriage or to cause her defilement, &c | do. | do. | do. | Imprisonment of either description for 10 years, and fine. | do |
| 367 | Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c | do. | do. | do. | do. | do. |
| 368 | Concealing or keeping in confinement a kidnapped person. | do. | do. | do. | Punishment for kidnapping or abduction. | do. |
| 369 | Kidnapping or abducting a child with intent to take property from the person of such child | do. | do. | do. | Imprisonment of either description for 7 years, and fine. | do |
| 370 | Buying or disposing of any person as a slave. | Shall not arrest without warrant | do. | Bailable | do. | do. |
| 371 | Habitual dealing in slaves. | May arrest without warrant. | do. | Not bailable. | Transportation for life, or imprisonment of either description for 10 years, and fine | do. |
| 372 | Selling or letting to hire a minor for the purpose of prostitution. | do. | do. | do. | Imprisonment of either description for 10 years, and fine. | do. |
| 373 | Buying or obtaining possession of a minor for the same purpose. | do. | do. | do. | do. | do. |
| 374 | Unlawful compulsory labor. | do. | do. | Bailable. | Imprisonment of either description for 1 year, or fine, or both. | Any Magistrate. |

### *Of Rape.*

| | | | | | | |
|---|---|---|---|---|---|---|
| 376 | Rape. | May arrest without warrant | Warrant. | Not bailable | Transportation for life, or imprisonment of either description for 10 years, and fine. | Court of Session |

### *Of Unnatural Offences.*

| | | | | | | |
|---|---|---|---|---|---|---|
| 377 | Unnatural offences. | May arrest without warrant. | Warrant. | Not bailable. | Transportation for life, or imprisonment of either description for 10 years, and fine. | Court of Session. |

## CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.

### *Of Theft.*

| | | | | | | |
|---|---|---|---|---|---|---|
| 379 | Theft. | May arrest without warrant. | Warrant. | Not bailable. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session or Magistrate of the District. |
| 380 | Theft in a building, tent, or vessel. | do. | do. | do. | Imprisonment of either description for 7 years, and fine. | do. |
| 381 | Theft by clerk or servant of property in possession of master or employer | do. | do. | do. | do. | do. |
| 382 | Theft, preparation having been made for causing death, or hurt, or restraint, or fear of death, or of hurt, or of restraint, in order to the committing such theft, or to retiring after committing it, or to retaining property taken by it. | do. | do. | do. | Rigorous imprisonment for 10 years, and fine. | Court of Session. |

### *Of Extortion.*

| | | | | | | |
|---|---|---|---|---|---|---|
| 384 | Extortion. | Shall not arrest without warrant | Warrant. | Bailable. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session or Magistrate of the District. |
| 385 | Putting or attempting to put in fear of injury in order to commit extortion. | do. | do. | do. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 386 | Extortion by putting a person in fear of death or grievous hurt. | do. | do. | Not bailable. | Imprisonment of either description for 10 years, and fine. | Court of Session. |
| 387 | Putting or attempting to put a person in fear of death or grievous hurt, in order to commit extortion | do. | do. | do. | Imprisonment of either description for 7 years, and fine. | do. |
| 388 | Extortion by threat of accusation of an offence punishable with death, transportation for life, or imprisonment for 10 years | do. | do. | do. | Imprisonment of either description for 10 years, and fine. | do. |
| | If the offence threatened be an unnatural offence. | do. | do. | do. | Transportation for life. | do. |
| 389 | Putting person in fear of accusation of offence punishable with death, transportation for life, or with imprisonment for 10 years, in order to commit extortion. | do. | do. | do. | Imprisonment of either description for 10 years, and fine. | do. |
| | If the offence be an unnatural offence. | do. | do. | do. | Transportation for life. | do |

## CHAPTER XVII.—OF OFFENCES AGAINST PROPERTY.—*(Continued.)*

### *Of Robbery and Dacoity.*

| 1. Section. | 2. Offence. | 3. Whether the Police may arrest without warrant or not. | 4. Whether a warrant or a Summons shall ordinarily issue in the first instance. | 5. Whether bailable or not. | 6. Punishment under the Indian Penal Code. | 7. By what Court triable. |
|---|---|---|---|---|---|---|
| 392 | Robbery. | May arrest without warrant. | Warrant. | Not bailable. | Rigorous imprisonment for 10 years, and fine. | Court of Session. |
| | If committed on the highway between sunset and sunrise. | do. | do. | do. | Rigorous imprisonment for 14 years, and fine. | do. |
| 393 | Attempt to commit robbery. | do. | do. | do. | Rigorous imprisonment for 7 years, and fine. | do. |
| 394 | Person voluntarily causing hurt in committing or attempting to commit robbery, or any other person generally concerned in such robbery. | do. | do. | do. | Transportation for life, or rigorous imprisonment for 10 years, and fine. | do. |
| 395 | Dacoity. | do. | do. | do. | do. | do. |
| 396 | Murder in Dacoity. | do. | do. | do. | Death, transportation for life, or rigorous imprisonment for 10 years, and fine. | do. |
| 397 | Robbery or dacoity with attempt to cause death or grievous hurt. | do. | do. | do. | Rigorous imprisonment for not less than 7 years. | do. |
| 398 | Attempt to commit robbery or dacoity when armed with deadly weapon. | do. | do. | do. | do. | do. |
| 399 | Making preparation to commit dacoity. | do. | do. | do. | Rigorous imprisonment for 10 years and fine. | do. |
| 400 | Belonging to a gang of persons associated for the purpose of habitually committing dacoity. | do. | do. | do. | Transportation for life, or as above. | do. |
| 401 | Belonging to a wandering gang of persons associated for the purpose of habitually committing thefts. | do. | do. | do. | Rigorous imprisonment for 7 years and fine. | do. |
| 402 | Being one of five or more persons assembled for the purpose of committing dacoity. | do. | do. | do. | do. | do. |

## *Of Criminal Misappropriation of Property.*

| | | | | | | |
|---|---|---|---|---|---|---|
| 403 | Dishonest misappropriation of moveable property or converting it to one s own use | Shall not arrest without warrant | Warrant | Bailable | Imprisonment of either description for 2 years, or fine, or both. | Any Magistrate. |
| 404 | Dishonest misappropriation of property, knowing that it was in possession of a deceased person at his death, and that it has not since been in the possession of any person legally entitled to it. | do. | do. | do | Imprisonment of either description for 3 years and fine | Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class |
| | If by clerk or person employed by deceased. | do | do | do | Imprisonment of either description for 7 years, and fine | do |

## *Of Criminal Breach of Trust*

| | | | | | | |
|---|---|---|---|---|---|---|
| 406 | Criminal breach of trust. | Shall not arrest without warrant. | Warrant | Not bailable | Imprisonment of either description for 3 years, or fine, or both. | Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class |
| 407 | Criminal breach of trust by a carrier, wharfinger, &c | do. | do | do | Imprisonment of either description for 7 years, and fine. | do. |
| 408 | Criminal breach of trust by a clerk or servant | do | do | do | do | do |
| 409 | Criminal breach of trust by public servant, or by banker, merchant, or agent, &c | do | do | do. | Transportation for life, or imprisonment of either description for 10 years, and fine. | do. |

## *Of the Receiving of Stolen Property*

| | | | | | | |
|---|---|---|---|---|---|---|
| 411 | Dishonestly receiving stolen property, knowing it to be stolen | May arrest without warrant | Warrant | Not bailable | Imprisonment of either description for 3 years, or fine, or both | Court of Session, or Magistrate of the District or Subordinate Magistrate of 1st Class |
| 412 | Dishonestly receiving stolen property, knowing that it was obtained by dacoity | do. | do | do. | Transportation for life, or rigorous imprisonment for 10 years, and fine | Court of Session. |
| 413 | Habitually dealing in stolen property | do. | do | do | Transportation for life, imprisonment of either description for 10 years and fine | do. |
| 414 | Assisting in concealment or disposal of stolen property, knowing it to be stolen. | do | do. | do. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session, or Magistrate of the District or Subordinate Magistrate of 1st Class |

N

## CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—*(Continued.)*

### *Of Cheating.*

| 1. Section. | 2. Offence. | 3. Whether the Police may arrest without warrant or not. | 4. Whether a warrant or a summons shall ordinarily issue in the first instance. | 5. Whether bailable or not. | 6. Punishment under the Indian Penal Code. | 7. By what Court triable. |
|---|---|---|---|---|---|---|
| 417 | Cheating. | Shall not arrest without warrant. | Warrant. | Bailable. | Imprisonment of either description for 1 year, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 418 | Cheating a person whose interest the offender was bound, either by law or by legal contract, to protect. | do. | do. | do. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 419 | Cheating by personation. | do. | do. | do. | do. | do. |
| 420 | Cheating and thereby dishonestly inducing delivery of property, or the altering or destroying of a valuable security. | do. | do. | do. | Imprisonment of either description for 7 years, and fine. | Court of Session. |

### *Of Fraudulent Deeds and Dispositions of Property.*

| | | | | | | |
|---|---|---|---|---|---|---|
| 421 | Fraudulent removal or concealment of property, &c., to prevent distribution among creditors. | Shall not arrest without warrant. | Warrant. | Bailable. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 422 | Fraudulently preventing from being made available for his creditors a debt or demand due to the offender. | do. | do. | do. | do. | do. |
| 423 | Fraudulent execution of deed of transfer containing a false statement of consideration. | do. | do. | do. | do. | do. |
| 424 | Fraudulent removal or concealment of property of himself or any other person, or assisting in the doing thereof, or dishonestly releasing any demand or claim to which he is entitled. | do. | do. | do. | do. | do. |

## *Of Mischief.*

| | | | | | | |
|---|---|---|---|---|---|---|
| 426 | Mischief. | Shall not arrest without warrant. | Summons. | Bailable. | Imprisonment of either description for 3 months, or fine, or both. | Any Magistrate. |
| 427 | Mischief, and thereby causing damage to the amount of 50 Rupees or upwards. | do. | Warrant. | do. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 428 | Mischief by killing, poisoning, maiming, or rendering useless, any animal of the value of 10 Rupees or upwards. | do. | do. | do. | do. | do. |
| 429 | Mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, &c., whatever may be its value, or any other animal of the value of 50 Rupees or upwards. | do. | do. | do. | Imprisonment of either description for 5 years, or fine, or both. | Court of Session, or Magistrate of the District or Subordinate Magistrate of 1st Class. |
| 430 | Mischief by causing diminution of supply of water for agricultural purposes, &c. | May arrest without warrant. | do. | do. | do. | do. |
| 431 | Mischief by injury to public road, bridge, river, or navigable channel, and rendering it unpassable or less safe for travelling or conveying property. | do. | do. | do. | do. | do. |
| 432 | Mischief by causing inundation or obstruction to public drainage attended with damage. | do. | do. | do. | do. | do. |
| 433 | Mischief by destroying or moving or rendering less useful a lighthouse or sea-mark, or by exhibiting false lights. | do. | do. | do. | Imprisonment of either description for 7 years, or fine, or both. | Court of Session. |
| 434 | Mischief by destroying or moving, &c. a land-mark fixed by public authority. | Shall not arrest without warrant. | do. | do. | Imprisonment of either description for 1 year, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 435 | Mischief by fire or explosive substance, with intent to cause damage to amount of 100 Rupees or upwards. | May arrest without warrant. | do. | do. | Imprisonment of either description for 7 years, and fine. | Court of Session. |
| 436 | Mischief by fire or explosive substance, with intent to destroy a house, &c. | do. | do. | Not bailable. | Transportation for life, or imprisonment of either description for 10 years, and fine. | do. |
| 437 | Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden. | do. | do. | do. | Imprisonment of either description for 10 years, and fine. | do. |
| 438 | The mischief described in the last Clause when committed by fire or any explosive substance. | do. | do. | do. | Transportation for life, or imprisonment of either description for 10 years, and fine. | do. |
| 439 | Running vessel ashore with intent to commit theft, &c. | do. | do. | do. | Imprisonment of either description for 10 years, and fine. | do. |
| 440 | Mischief committed after preparation made for causing death or hurt, &c. | do. | do. | do. | Imprisonment of either description for 5 years, and fine. | do. |

## CHAPTER XVII.—OFFENCES AGAINST PROPERTY.—*(Continued.)*

### *Of Criminal Trespass.*

| 1. Section. | 2. Offence. | 3. Whether the Police may arrest without warrant or not. | 4. Whether a warrant or a summons shall ordinarily issue in the first instance. | 5. Whether bailable or not. | 6. Punishment under the Indian Penal Code. | 7. By what Court triable. |
|---|---|---|---|---|---|---|
| 447 | Criminal trespass. | May arrest without warrant. | Summons. | Bailable. | Imprisonment of either description for 3 months, or fine of 500 Rs, or both. | Any Magistrate. |
| 448 | House-trespass. | do. | Warrant. | do. | Imprisonment of either description for 1 year, or fine of 1,000 Rs., or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 449 | House-trespass in order to the commission of an offence punishable with death. | do. | do. | Not bailable. | Transportation for life or rigorous imprisonment for 10 years, and fine. | Court of Session. |
| 450 | House-trespass in order to the commission of an offence punishable with transportation for life. | do. | do. | do. | Imprisonment of either description for 10 years and fine. | do. |
| 451 | House-trespass in order to the commission of an offence punishable with imprisonment. | do. | do. | Bailable. | Imprisonment of either description for 2 years, and fine. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| | If the offence is theft. | do. | do. | Not bailable. | Imprisonment of either description for 7 years, and fine. | Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 452 | House-trespass, having made preparation for causing hurt, assault, &c. | do. | do. | do. | do. | do. |
| 453 | Lurking house-trespass, or house-breaking. | do. | do. | do. | Imprisonment of either description for 2 years, and fine. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 454 | Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment. | do. | do. | do. | Imprisonment of either description for 3 years, and fine. | Court of Session or Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| | If the offence is theft. | do. | do. | do. | Imprisonment of either description for 10 years, and fine. | do. |

| | | | | | | |
|---|---|---|---|---|---|---|
| 455 | Lurking house-trespass or house-breaking after preparation made for causing hurt, assault, &c. | do. | do. | do. | Imprisonment of either description for 3 years, and fine. | Court of Session. |
| | If the offence is theft. | do. | do. | do. | Imprisonment of either description for 10 years, and fine. | do. |
| 456 | Lurking house-trespass or house-breaking by night. | do. | do. | do. | Imprisonment of either description for 3 years, and fine. | Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 457 | Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment. | do. | do. | do. | Imprisonment of either description for 5 years, and fine. | Court of Session or Magistrate of the District. |
| | If the offence is theft. | do. | do. | do. | Imprisonment of either description for 14 years, and fine. | do. |
| 458 | Lurking house-trespass or house-breaking by night after preparation made for causing hurt, &c. | do. | do. | do. | do. | Court of Session. |
| 459 | Grievous hurt caused whilst committing lurking house-trespass or house-breaking. | do. | do. | do. | Transportation for life, or imprisonment of either description for 10 years, and fine. | do. |
| 460 | Death or grievous hurt caused by one of several persons jointly concerned in house-breaking by night, &c | do. | do. | do. | do. | do. |
| 461 | Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property. | do. | do. | Bailable. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 462 | Being entrusted with any closed receptacle containing or supposed to contain any property, and fraudulently opening the same. | do. | do. | do. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class. |

## CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS, AND TO TRADE OR PROPERTY-MARKS.

| | | | | | | |
|---|---|---|---|---|---|---|
| 465 | Forgery. | Shall not arrest without warrant. | Warrant. | Bailable. | Imprisonment of either description for 2 years, or fine, or both. | Court of Session. |
| 466 | Forgery of a record of a Court of Justice or of a Register of Births, &c., kept by a public servant. | do. | do. | Not bailable. | Imprisonment of either description for 7 years, and fine. | do. |
| 467 | Forgery of a valuable security, will, or authority to make or transfer any public security, or to receive any money, &c. | do. | do. | do. | Transportation for life, or imprisonment of either description for 10 years, and fine. | do. |
| 468 | Forgery for the purpose of cheating. | do. | do. | do. | Imprisonment of either description for 7 years, and fine. | do. |

## CHAPTER XVIII.—OF OFFENCES RELATING TO DOCUMENTS, AND TO TRADE OR PROPERTY-MARKS.—*(Continued.)*

| 1. Section. | 2. Offence. | 3. Whether the Police may arrest without warrant or not. | 4. Whether a warrant or a summons shall ordinarily issue in the first instance. | 5. Whether bailable or not. | 6. Punishment under the Indian Penal Code. | 7. By what Court triable. |
|---|---|---|---|---|---|---|
| 469 | Forgery for the purpose of harming the reputation of any person or knowing that it is likely to be used for that purpose. | Shall not arrest without warrant. | Warrant. | Bailable. | Imprisonment of either description for 3 years, and fine. | Court of Session. |
| 471 | Using as genuine a forged document which is known to be forged. | do. | do. | do. | Punishment for forgery. | do. |
| 472 | Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable under Section 467 of the Indian Penal Code, or possessing with like intent any such seal, plate, &c., knowing the same to be counterfeit. | do. | do. | Not bailable. | Transportation for life, or imprisonment of either description for 7 years, and fine. | do. |
| 473 | Making or counterfeiting a seal, plate, &c., with intent to commit a forgery punishable otherwise than under Section 467 of the Indian Penal Code, or possessing with like intent any such seal, &c. | do. | do. | do. | Imprisonment of either description for 7 years, and fine. | do. |
| 474 | Having possession of a document, knowing it to be forged, with intent to use it as genuine. | do. | do. | do. | do. | do. |
| | If the document is a valuable security or will. | do. | do. | do. | Transportation for life, or as above. | do. |
| 475 | Counterfeiting a device or mark used for authenticating documents described in Section 467 of the Indian Penal Code, or possessing counterfeit marked material. | do. | do. | do. | do. | do. |
| 476 | Counterfeiting a device or mark used for authenticating documents other than those described in Section 467 of the Indian Penal Code, or possessing counterfeit marked material. | do. | do. | do. | Imprisonment of either description for 7 years, and fine. | do. |
| 477 | Fraudulently destroying or defacing, or attempting to destroy or deface, or secreting, a will, &c. | do. | do. | do. | Transportation for life, or imprisonment of either description for 7 years, and fine. | do. |

| | | | | | | |
|---|---|---|---|---|---|---|
| 482 | Using a false trade or property-mark with intent to deceive or injure any person. | Shall not arrest without warrant. | Warrant. | Bailable. | Imprisonment of either description for 1 year, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 483 | Counterfeiting a trade or property-mark used by another with intent to cause damage or injury. | do. | do. | do. | Imprisonment of either description for 2 years, or fine, or both. | do. |
| 484 | Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property. | do. | Summons. | do. | Imprisonment of either description for 3 years, and fine. | Court of Session, or Magistrate of the District. |
| 485 | Fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark. | do. | do. | do. | do. | do. |
| 486 | Knowingly selling goods marked with a counterfeit property or trade-mark. | do. | do. | do. | Imprisonment of either description for 1 year, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 487 | Fraudulently making a false mark upon any package or receptacle containing goods with intent to cause it to be believed that it contains goods which it does not contain, &c. | do. | do. | do. | Imprisonment of either description for 3 years, or fine, or both. | Court of Session, or Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 488 | Making use of any such false mark. | do. | do. | do. | do. | do. |
| 489 | Removing, destroying, or defacing any property-mark with intent to cause injury. | do. | do. | do. | Imprisonment of either description for 1 year, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |

## CHAPTER XIX.—OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.

| | | | | | | |
|---|---|---|---|---|---|---|
| 490 | Being bound by contract to render personal service during a voyage or journey, or to convey or guard any property or person, and voluntarily omitting to do so. | Shall not arrest without warrant. | Summons. | Bailable. | Imprisonment of either description for 1 month, or fine of 100 Rs. or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| 491 | Being bound to attend on or supply the wants of a person who is helpless from youth, unsoundness of mind, or disease, and voluntarily omitting to do so. | do. | do. | do. | Imprisonment of either description for 3 months, or fine of 200 Rs., or both. | do. |
| 492 | Being bound by a contract to render personal service for a certain period at a distant place to which the employee is conveyed at the expense of the employer, and there voluntarily deserting the service or refusing to perform the duty. | do. | do. | do. | Imprisonment of either description for 1 month, or fine of double the expense incurred, or both. | do. |

## CHAPTER XX.—OFFENCES RELATING TO MARRIAGE.

| Section. | 2. Offence. | 3. Whether the Police may arrest without warrant or not. | 4. Whether a warrant or a summons shall ordinarily issue in the first instance. | 5. Whether bailable or not. | 6. Punishment under the Indian Penal Code. | 7. By what Court triable. |
|---|---|---|---|---|---|---|
| 493 | A man by deceit causing a woman not lawfully married to him to believe that she is lawfully married to him, and to cohabit with him in that belief. | Shall not arrest without warrant. | Warrant. | Not bailable. | Imprisonment of either description for 10 years and fine. | Court of Session. |
| 494 | Marrying again during the lifetime of a husband or wife. | do. | do. | Bailable. | Imprisonment of either description for 7 years and fine. | do. |
| 495 | Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted. | do. | do. | Not bailable. | Imprisonment of either description for 10 years and fine. | do. |
| 496 | A person with fraudulent intention going through the ceremony of being married, knowing that he is not thereby lawfully married. | do. | do. | do. | Imprisonment of either description for 7 years and fine. | do. |
| 497 | Adultery. | do. | do. | Bailable. | Imprisonment of either description for 5 years, or fine, or both. | do. |
| 498 | Enticing or taking away or detaining with a criminal intent a married woman. | do. | do. | do. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District. |

## CHAPTER XXI.—OF DEFAMATION.

| | | | | | | |
|---|---|---|---|---|---|---|
| 500 | Defamation. | Shall not arrest without warrant. | Warrant. | Bailable. | Simple imprisonment for 2 years, or fine, or both. | Magistrate of the District. |
| 501 | Printing or engraving matter knowing it to be defamatory. | do. | do. | do. | do. | do. |
| 502 | Sale of printed or engraved substance containing defamatory matter, knowing it to contain such matter. | do. | do. | do. | do. | do. |

## CHAPTER XXII.—OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

| | | | | | | |
|---|---|---|---|---|---|---|
| 504 | Insult intended to provoke a breach of the peace. | Shall not arrest without warrant. | Warrant. | Bailable. | Imprisonment of either description for 2 years, or fine, or both. | Any Magistrate. |
| 505 | False statement, rumours, &c., circulated with intent to cause mutiny or offences against the public peace. | do. | do. | Not bailable. | do. | Magistrate of the District. |
| 506 | Criminal intimidation. | do. | do. | Bailable. | Imprisonment of either description for 2 years, or fine, or both. | Magistrate of the District, or Subordinate Magistrate of 1st Class. |
| | If threat be to cause death or grievous hurt, &c. | do. | do. | do. | Imprisonment of either description for 7 years, or fine, or both. | Court of Session. |
| 507 | Criminal intimidation by anonymous communication or having taken precaution to conceal whence the threat comes. | do. | do. | do. | Imprisonment of either description for 2 years in addition to the punishment under above Section. | do. |
| 508 | Act caused by inducing a person to believe that he will be rendered an object of the divine displeasure. | do. | do. | do. | Imprisonment of either description for 1 year, or fine, or both. | Magistrate of the District. |
| 509 | Uttering any word or making any gesture intended to insult the modesty of a woman. | do. | do. | do. | Simple imprisonment for 1 year, or fine, or both. | do. |
| 510 | Appearing in a public place, &c., in a state of intoxication, and causing annoyance to any person. | do. | do. | do. | Simple imprisonment for 24 hours, or fine of 10 Rs., or both. | Any Magistrate. |

## CHAPTER XXIII.—OF ATTEMPTS TO COMMIT OFFENCES.

| | | | | | | |
|---|---|---|---|---|---|---|
| 511 | Attempting to commit offences punishable with imprisonment, and in such attempt doing any act towards the commission of the offence. | According as the offence is one in respect of which the Police may arrest without warrant or not. | According as the offence is one in respect of which a summons or warrant shall ordinarily issue. | According as the offence contemplated by the offender is bailable or not. | Transportation or imprisonment not exceeding half of the longest term of either description provided for the offence, or fine, or both. | By the Court by which the offence attempted is triable. |

M. WYLIE,
*Clerk of the Council.*

# ACT NO. XXXIII. OF 1861.

*An Act to amend the Schedule annexed to the Code of Criminal Procedure.*

Preamble.

WHEREAS it is expedient to amend the Schedule annexed to the Code of Criminal Procedure; It is enacted as follows:—

Amendment of the Schedule as regards Section 379 of the Penal Code.

I. In lieu of the words "Court of Session or Magistrate of the District" in Column 7 of the Schedule annexed to the Code of Criminal Procedure referring to Section 379 of the Indian Penal Code, there shall be read the words "Court of Session or any Magistrate."

Amendment of the Schedule as regards Section 457 of the Penal Code.

II. In lieu of the words "Court of Session or Magistrate of the District" in the two Clauses of Column 7 of the said Schedule referring to the provisions contained in Section 457 of the Indian Penal Code, there shall be read the words "Court of Session or Magistrate of the District, or Subordinate Magistrate of the First Class."

Construction.

III. This Act shall be read and taken as part of the Code of Criminal Procedure.

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